REPORT OF THE STUDY GROUP EXAMINING THE POSSIBLE CONSOLIDATION OF THE DEPARTMENT OF BUSINESS ASSISTANCE (DBA) INTO THE VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP (VEDP) AND/OR THE DEPARTMENT OF MINORITY BUSINESS ENTERPRISE (DMBE)

November 1, 2008

Prepared for the Chairmen of the House Appropriations and Senate Finance Committees

The Honorable Patrick O. Gottschalk
Secretary of Commerce and Trade

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I. STUDY BACKGROUND – LEGISLATIVE AND BUDGETARY CONTEXT

HB 1522 was introduced during the 2008 General Assembly session and called for the elimination of DBA and the subsequent transfer of its programs to the VEDP. This measure passed the House of Delegates but was passed by indefinitely in the Senate Committee on Commerce and Labor. [1]

Paragraph G of Item 105, Chapter 879, 2008 Acts of Assembly (2008 Appropriations Act) provided the following language:

The Secretary of Commerce and Trade shall evaluate the efficacy of and the financial and programmatic efficiencies that could be generated by consolidating the Department of Business Assistance into an appropriate agency within the Commerce and Trade Secretariat. Agencies that the Secretary shall consider consolidating the Department of Business Assistance into shall include, but not be limited to, the Virginia Economic Development Partnership and the Department of Minority Business Enterprises. As part of this evaluation, the Secretary shall develop a process to transfer the workforce-related service activities at the Department of Business Assistance to the Virginia Economic Development Partnership. The evaluation shall include, but not be limited to, establishing the goals of the new agency; measurable objectives to assess the future performance of the agency; the strategies to carry out the objectives; and identification and description of the activities and services to be reorganized, enhanced, curtailed, or eliminated. The Secretary of Commerce and Trade shall report its findings to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2008, with a detailed review of the plan for completing the consolidation.

II. FORMATION OF STUDY GROUP

In order to generate substantial dialogue and discussion on this topic, the Secretary of Commerce and Trade created a Study Group to examine several permutations that outline possible options for the programmatic alignment of business and economic development services in the Commonwealth.

The members of the Study Group included:

- The Honorable Patrick O. Gottschalk (Chair, Secretary of Commerce and Trade)

[1] See Appendix A for text of House Bill 1522.

- The Honorable Viola O. Baskerville (Secretary of Administration)
- The Honorable Daniel G. LeBlanc (Senior Advisor to the Governor for Workforce)
- Mr. Hugh Keogh (President, Virginia Chamber of Commerce)
- Mr. Matthew James (President, Virginia Economic Developers Association)
- Mr. Oliver Singleton (President, Metropolitan Business League)
- Mr. Robert Nealon (Chair, Virginia Small Business Advisory Board)
- Mr. Bryce Jewett (President and CEO, Jewett Machine and Automation)

The work of the Study Group was supported by staff from the Office of the Secretary of Commerce and Trade. In addition, staff from DBA and DMBE as well as VEDP provided the Study Group with detailed information on agency programs and operations as needed throughout the course of the study.

III. WORK TIMELINE

Prior to the first meeting of the Study Group on May 14, 2008, Secretary Gottschalk sent a memorandum to selected legislators which outlined the scope of the study. The work timeline was presented as follows:

May 2008	Study Group Organizational Meeting	Establish framework for study scope and operation; outline permutations; make assignments of work; establish reporting guidelines
June 2008	Study Group Meeting 2	Follow-up discussion; presentation on cost savings and benefits for each permutation
July 2008	Study Group Meeting 3	Follow-up discussion
August 2008	Study Group Meeting 4	Develop a consensus; final review of findings; discussion
September 2008	First working draft of report circulated to members	Draft edits/suggestions received by staff
October 2008	Draft 2 circulated to members and staff; website continued to be monitored	Draft to be posted on Commerce and Trade website; member and public comments received by staff and incorporated into report; editing process continues
November 2008	Final Report submitted to House Appropriations, Senate Finance Committee Chairs	Report will include recommendations and detailed review of plans to complete consolidation

IV. MAY 14, 2008 MEETING

The Study Group was presented with a series of six potential permutations for the combination of DBA with VEDP and/or DMBE. The Study Group added a seventh permutation for analysis that would transfer to VEDP both the Virginia Jobs Investment Program (Permutation 2) and the Existing Business Services program contained within DBA. [2]

The Directors of each agency presented a thorough overview of their financial and programmatic portfolios. Based upon feedback from the Study Group, staff was instructed to prepare a detailed analysis of the basic functions and programs within DBA, DMBE, and VEDP.

Follow up to May 14, 2008 Meeting

Staff evaluated the financial and programmatic makeup of each agency and prepared a programmatic matrix that outlined the various programs and services offered by each agency. A summary of each agency's budget is below and additional details can be found within Appendix B. These details were incorporated into a revised memorandum from Secretary Gottschalk outlining the study. Excerpts of that memorandum are below:

Department of Business Assistance (DBA)

The Department of Business Assistance is charged with meeting its statutory functions pursuant to §2.2-900 et seq, Code of Virginia. To this end, the Department operates several core programs.

The Virginia Jobs Investment Program (VJIP) provides customized recruiting and training services to companies creating new jobs or experiencing technological change. As a business development incentive supporting economic development efforts throughout Virginia since 1965, the program reduces the human resource development costs of new and expanding companies throughout the Commonwealth. The VJIP incentive is an integral component of the state's economic development marketing efforts.

The Business Information Services Division (BIS) helps Virginia businesses get started and grow. Through the Business Formation team, technical assistance for entrepreneurs is offered to navigate the 26 state agencies, 110 licensing, permitting and regulatory program, and over 300 forms, thus accelerating economic activity. This group is also leading the development of the Business One Stop, an interactive portal to determine business formation requirements and related forms completion. The Business Formation team also delivers a statewide program called Entrepreneur Express. This program provides training on business topics and links entrepreneurs with other assistance resources.

- The Existing Business Services team of the of the Business Information Services division helps businesses grow their sales by helping them access new markets. While a major focus of the counseling involves state procurement, Existing Business Services also directs businesses in the

[2] See Appendix B for list of permutations.

federal and private markets. This team also offers one-on-one counseling sessions in 15 markets across the state, providing assistance at a level appropriate to client needs.

Virginia Small Business Financing Authority (VSBFA) serves as an administrator of direct loan, loan guaranty, and conduit financing programs for Virginia businesses, 501 (c) (3) non-profit entities, and economic development projects. In addition, VSBFA administers loan programs for other state agencies. The Authority's board is appointed by the Governor. VSBFA is charged with meeting its statutory functions pursuant to § 2.2-2279 et seq., Code of Virginia. Programs include the Virginia Capital Access Program (Virginia Small Business Growth Fund), the Capital Access Fund for Disadvantaged Businesses, and the Small Business Environmental Compliance Assistance Fund, the Federal Economic Development Loan Fund, the State Direct Loan Program, the Loan Guaranty Program, the Child Care Financing Program, the Tobacco Commission Capital Access Program, the New Markets Tax Credit Loan Program, and the Industrial Development Bond Program.

Virginia Small Business Advisory Board is charged with providing advice, making recommendations and serving as a resource for small business issues to DBA, the Secretary of Commerce and Trade and the Governor. The Board is staffed by DBA personnel.

Virginia Economic Development Partnership (VEDP)

VEDP enhances Virginia's economy by recruiting new businesses to Virginia and by providing expansion assistance to existing Virginia businesses. In addition, VEDP helps Virginia businesses identify international trade opportunities.

Pursuant to § 2.2 – 2234 et seq. of the Code of Virginia, VEDP promotes coordination and cooperation of economic development efforts between public institutions, regions, communities, and private industry.

Business Development Program – VEDP promotes business development through strategic market initiatives in different sectors.

International Trade and Investment – VEDP develops and executes Virginia's international marketing strategy to promote international sales for existing Virginia companies as well as the recruitment of foreign-owned firms to the Commonwealth.

Manage Economic Development Incentive Funds – VEDP manages the Governor's Development Opportunity Fund, Virginia Economic Development Incentive Grants, and the Virginia Investment Partnership grant program.

Executive Pulse Program – VEDP has acquired an online data management program that will support local and regional economic development entities as they contact existing businesses in their communities to identify problems or potential opportunities for expansion. VEDP was able to negotiate a master license agreement which allows the program to be affordable for all Virginia communities. This data management tool will improve information management relative to improving service delivery to existing businesses in Virginia and help inform state level policy judgments.

Department of Minority Business Enterprise (DMBE)

The agency's mission is to foster supplier diversity within the Commonwealth's procurement processes through its work on behalf of Virginia small, women, and minority owned firms.

Pursuant to§2.2 -1400 et seq. of the Code of Virginia, DMBE promotes the growth of Virginia small businesses and businesses owned by women and minorities by coordinating efforts to mobilize resources of businesses and trade associations, universities, foundations, and professional organizations along with those of state departments and agencies. DMBE also works to ensure agency compliance with established guidelines and procedures.

DMBE is responsible for implementing any state remediation or enhancement measure (i.e., corrective action or act of improvement) authorized by the Governor that is related to the establishment, preservation, and strengthening of small, women- and minority-owned businesses (pursuant to subsection C of §2.2-4310 of the Code of Virginia).

§2.2-4310 of the Code of Virginia also authorizes the Governor to require state agencies to implement appropriate enhancement or remedial measures that are consistent with prevailing law when there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and use of women- and minority-owned businesses.

Small, Women, and Minority (SWaM) Certification Program – This procurement initiative provides certification and procurement assistance to Small, Women, and Minority owned businesses in Virginia by targeting opportunities to enhance their access to Commonwealth contracts.

Disadvantaged Business Enterprise Certification Program – This U.S. Department of Transportation Program is administered by DMBE.

Pursuant to §§ 2.2 – 1402 and 2.2 – 2311 of the Code of Virginia, Disadvantaged Business refers to for-profit small business is majority-owned by one or more economically disadvantaged individuals. In the case of a corporation, a majority of the stock must be owned by one or more such individuals and the management and daily business operations shall be controlled by one or more of the economically disadvantaged individuals who own it. "Economically disadvantaged individual" is defined in these code sections as an individual whose ability to compete in the free market has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business and competitive market area.

DMBE also is tasked with certifying small businesses that are owned by service disabled veterans. These businesses are also certified by the Department of Veterans Services as 'service disabled'.

Management and Technical Assistance – DMBE provides SWaM vendors with management and technical assistance through workshops, demonstration projects, one-on-one business counseling, and procurement assistance. Workshops and seminars are focused on addressing the unique needs of small businesses.

A. Agency Budget Snapshots

(Note: The information provided below serves as an update to the data provided in Appendix B.)

Agency	Position Level Authorized	Current Staffing Level	Office Locations	FY 2009 Agency Budget	FY 2010 Agency Budget
Department of Business Assistance	**48 ***	**40**	**Richmond Abingdon**	**$11,223,521 (GF) $1,245,603 (NGF)**	**$11,223,521 (GF) $1,245,603 (NGF)**
Department of Minority Business Enterprise	**29 ****	**21**	**Richmond Hampton Norfolk Danville Lynchburg**	**$753,413 (GF) $1,506,868 (NGF)**	**$753,413 (GF) $1,506,868 (NGF)**
Virginia Economic Development Partnership	**110*****	**105**	**Richmond Abingdon Arlington Brussels Tokyo Seoul Hong Kong Mexico City Sao Paulo**	**$17,076,010 GF**	**$17,026,010 GF**

All funding and position data in the table above reflect appropriated levels in Chapter 879, the 2008 Appropriations Act.

* In the 2008 Appropriations Act, DBA has an authorized position level of 48 for the 2008-2010 biennium. Of these, 41 are general fund positions, or are supported with general fund dollars, and seven are non-general fund positions, or are supported with non-general fund dollars. The non-general fund positions support the Small Business Financing Authority.

** In the 2008 Appropriations Act, DMBE has an authorized position level of 29 for the 2008-2010 biennium. Of these, 10.5 are general fund positions, or are supported with general fund dollars, and 18.5 are non-general fund positions, or are supported with non-general fund dollars. The fund source for the non general fund positions is the Commonwealth Transportation Fund.

*** As an Authority, VEDP is not subject to a maximum prescribed position level in the

Appropriations Act. In addition to the Executive Director, in the 2008-2010 biennium, the Partnership anticipates that it will have 110 full-time employees all of whom serve at the pleasure of the Executive Director. Of the 110 positions indicated above, six of these reflect contract employees working in overseas offices.

B. Key Programs - Department of Business Assistance

Program	Funding Level FY 2009	Funding Level FY 2010
Virginia Jobs Investment Program	**$8,446,790***	**$8,446,790***
Business Formation Services	**$337,351****	**$337,351****
Existing Business Services	**$830,210**	**$830,210**
Virginia Small Business Financing Authority	**$1,425,352 *****	**$1,425,352*****
Administrative Services	**$1,429,421 ******	**$1,429,421******
Total Agency Budget	**$12,469,124**	**$12,469,124**

All funding data in the table above reflect appropriated levels in Chapter 879, the 2008 Appropriations Act.

* Approximately 85 percent of the $8,446,790 provided for the Virginia Jobs Investment Program in FY 2009 and FY 2010 will be used for direct services in the form of payments to eligible recipients for economic development projects.

**The Business Formation unit includes the Business One-Stop and Entrepreneur Express Programs.

*** The funding levels for the Virginia Small Business Financing Authority for FY 2009 and FY 2010 include non-general funds. The general fund budget is $179,334.

**** The Administrative Services budget includes $141,235 from the general fund in each year for distribution to the Virginia-Israel Advisory Board, as required by language in the Appropriations Act.

C. Key Programs - Department of Minority Business Enterprise

Program	Funding Level FY 2009	Funding Level FY 2010
SWAM Certification Program	$531,402	$531,402
Minority Business Outreach Program	$1,156,681	$1,156,681
Minority Business Enterprise Procurement Reporting Program	$509,417	$509,417
Capital Access Fund for Disadvantaged Businesses	$62,781	$62,781
Total Agency Budget	$2,260,281	$2,260,281

All funding data in the table above reflect appropriated levels in Chapter 879, the 2008 Appropriations Act.

D. Key Programs - Virginia Economic Development Partnership

Program	Funding Level FY 2009	Funding Level FY 2010
Economic Development Services	$16,931,010*	$16,931,510*

Financial Assistance for Economic Development	**$145,000 ****	**$95,000 ****
Total Agency Budget	**$17,076,010 *****	**$17,026,010 *****

All funding data in the table above reflect appropriated levels in Chapter 879, the 2008 Appropriations Act.

* The Economic Development Services funding above includes $484,500 in each year for the operations of the Virginia National Defense Industrial Authority (VNDIA), as provided for by language in the Appropriations Act. These funds are accounted for within the Authority's budget, yet the Authority does not include this amount as part of its budget planning process.

**Funding in the Financial Assistance for Economic Development service area includes pass-through funding in the amount of $95,000 in each year for the Virginia Commercial Space Flight Authority and $50,000 in FY 2009 for the Virginia Biotechnology Research Partnership Authority.

***VEDP provides fiscal, human resources, and information technology services to the Virginia Tourism Authority and VNDIA. In addition, the Partnership pays the office rent for Tourism, as provided for in a Memorandum of Agreement between the two organizations and required by Chapter 935, 1999 Acts of Assembly.

V. JUNE 12, 2008 MEETING

The Study Group concluded that funding levels for DBA's Existing Business Services are currently inadequate. In addition, the group recommended that Permutations 2, 7, and 8 be considered for further study while Permutations 1, 3, 4, 5, and 6 be eliminated from consideration.

Permutation Analysis
In order to research the potential impacts of permutations to the agencies and the Commonwealth based upon costs and programmatic impact, staff developed eight permutations for consideration and prepared a permutation worksheet based upon the following four impact areas:

Financial Analysis

- Analysis was based upon rough estimates of costs and savings that would be incurred by each agency in the areas of technology equipment acquisition and management as well as from the addition or elimination of personnel to handle IT and HR services.

Real Estate Impact

- Potential costs and savings were analyzed by determining whether or not lease adjustments

would need to be made as well as one-time costs such as space reconfiguration and moving expenses.

Personnel Levels

- Impacts were measured by potential costs and savings in terms of salary and benefits structure, classified versus at-will status, as well as adjustments to the overall maximum employee levels within each agency.

- In addition, the Secretary's office expressed a desire to analyze potential costs and savings based upon current positions filled within the agencies in order to pinpoint any potential savings that could be achieved based upon the elimination of duplicative positions.

Programmatic Effects

- The programmatic effect factor was based upon the agency analysis of the overall effect on service delivery that would be generated by pursuing different permutations. Factors that were considered included an analysis of the functions that would be performed by each agency as well as changes to the overall alignment of business and economic development services in the Commonwealth.

In addition to the above criteria, the Study Group considered public comments relating to different approaches. [3]

Permutation Discussion Highlights

The permutations presented to the Study Group were as follows:

Permutation 1: VEDP, DBA and DMBE would continue to function as completely separate agencies with each keeping their existing programmatic portfolios. This arrangement would maintain the status quo.

This permutation was **not recommended for further study** because the overall impact of economic development and business services (i.e. maintaining the status quo) would not change.

Permutation 2: VEDP would be responsible for the administration of the Virginia Jobs Investment Program (formerly called "Workforce Services") rather than DBA. Under this arrangement, DBA would continue administering the remaining programs under its authority.

This scenario was **recommended for further study** to determine whether or not the delivery of workforce services via the Virginia Jobs Investment Program would become more seamless if VEDP rather than DBA became the administering agent.

Permutation 3: VEDP would be responsible for the administration of the Virginia Jobs Investment Program rather than DBA. The remaining DBA programs would be transferred to DMBE with the

[3] See Appendix D for additional information.

resulting action being the creation of a new/reorganized agency focusing on all aspects of small business development.

The scenario was **not recommended for further study** because members of the Study Group felt strongly that DMBE maintains a very specific mission relating to the administration of the SWaM certification program and the growth and development of SWaM businesses. In addition, the Group felt inclusion of other programs focusing on small business development and entrepreneurship could potentially decrease DMBE's focus on SWaM.

Permutation 4: DBA would be fully absorbed into VEDP.

This scenario was **not recommended for further study**. At this particular meeting, Study Group members felt strongly that this scenario would lead to an insufficient delivery of services to small and medium sized businesses.

(Note: While this permutation was not recommended for further study, it was later considered once again in order to ensure that the Study Group report contains financial and programmatic efficiencies that could be produced under a consolidation option, and to be fully responsive to the statutory requirement.)

Permutation 5: The Virginia Jobs Investment Program as well as the Existing Business Services programs currently administered by DBA would be transferred to VEDP, with the remaining DBA programs going to DMBE.

This scenario was **not recommended for further study** due to concerns that the addition of new programs to DMBE would alter its mission of enhancing supplier diversity within the Commonwealth's procurement system by creating growth opportunities in procurement for Virginia SWaM businesses. In addition, the existing business function currently operating at DBA works primarily with counseling businesses about state and federal procurement.

Permutation 6: The small business financing services, existing business services, and workforce services programs within DBA would be transferred to VEDP, while the remaining SWAM services program within DBA would transfer to DMBE. This action would result in the creation of a new/reorganized agency that would be focused on SWaM business services and certification.

The Group determined that the new SWaM agency would be able to serve the needs of its client base but would be left as a small agency. In order to maintain current service delivery, **the Group decided to eliminate this permutation from consideration.**

Permutation 7: The Virginia Jobs Investment Program and the Existing Business Services programs within DBA would be transferred to VEDP. DMBE would remain intact and independent. DBA would be replaced with a "Department of Small Business Development" that would house the VSBFA as well as a group that would provide small business counseling and mentoring services to entrepreneurs and emerging companies.

This scenario **was recommended for further study** to determine whether or not the transfer of Existing Business Services programs to VEDP (in addition to the VJIP program) would allow for a more streamlined delivery of Commonwealth services to businesses.

Permutation 8: The Virginia Jobs Investment Program would be transferred from DBA to VEDP. The VEDP Executive Pulse program would be transferred from VEDP to DBA.

This scenario **was recommended for further study**. This scenario involves the transfer of the VJIP program from DBA to VEDP as well as shifting the management of the Executive Pulse program from VEDP to DBA.

Lastly, at this stage of the Group's proceedings, the Study Group concluded that Permutation 7 be given the highest priority for consideration, followed by Permutations 2 and 8.

In addition, the Study Group reached a consensus that there currently exists a gap in service delivery to existing businesses in the Commonwealth that must be addressed. For example, VEDP purchased software, Executive Pulse, to assist localities to establish a local business calling program. However, the group felt that this activity needed expansion to feed information back up to state government and to iron out problems between state agencies and businesses. The Study Group considered the addition of staff to either DBA or VEDP for this purpose.

Follow up to June 12, 2008 meeting

While the Study Group did not recommend further study on Permutation 4, staff analyzed this permutation in order to address budget language mandating that the Secretary of Commerce and Trade evaluate the financial savings that could be achieved by consolidating DBA into an appropriate agency within the Commerce and Trade Secretariat.

VI. JULY 23, 2008 MEETING

During the meeting, Secretary of Commerce and Trade staff presented permutation snapshots to Study Group members as prepared by staff.[4]

The Virginia Small Business Advisory Board (VSBAB) strongly recommended that DBA remain a separate agency and that the Study Group develop recommendations that seek to preserve the Commonwealth's programs and services that help facilitate small business development in the Commonwealth. [5]

The Study Group was also presented with best practices information on the alignment of economic development and business services in other states. [6]

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[4] See Appendix C for additional details.
[5] See Appendix D for additional details.
[6] See Appendix E for additional details.

This information revealed that there does not exist a "one-size fits all" model for the funding of workforce development incentive grant programs (like VJIP) across the states, as some prefer to align their programs through economic development agencies, community college systems, and their labor and employment offices.

The consensus of the Study Group was that savings should not be the number one priority when considering the appropriate alignment of business and economic development services in the Commonwealth. Non-economic decisions such as impact on service delivery and the overall morale impact on agency personnel must also be taken into account.

VII. AUGUST 19, 2008 MEETING

The Study Group recommended that funding for the Providing Access to Capital for Entrepreneurs (P.A.C.E.) program be fully replenished in order to allow DMBE to provide eligible businesses with financing for working capital, expansion, equipment, agri-business and other business needs. [7]

DMBE and VSBFA estimate that $150,000 in funding for each of the two years of the 2008-2010 biennial budget would allow the program to continue meeting demand based upon historical usage trends.

Pursuant to § 2.2-2311 of the Code of Virginia, DMBE manages the Capital Access Fund for Disadvantaged Businesses, also known as the P.A.C.E. program. This loan guaranty program is administered by DBA (through the VSBFA) on behalf of DMBE and provides eligible banks with loan guaranties.

The program contains two financing mechanisms, the Capital Access Fund for Disadvantaged Businesses and the Loan Guaranty Fund for Disadvantaged Businesses.

The Study Group endorsed the concept of changing the name of DMBE to the "Department of Supplier Diversity" in order to better reflect DMBE's role in coordinating the alignment of existing businesses to contracting opportunities.

VIII. SEPTEMBER 5, 2008 MEETING

The Study Group decided that the report to the General Assembly would include a series of findings that would summarize the work of the Group.

These findings will include two possible scenarios regarding the alignment of business and economic development services including (1) maintaining the status quo; and (2) the transfer of the VJIP program from DBA to VEDP.

The Group determined that the report will also contain additional findings that reflect the work of the Study Group in the area of enhancing overall service delivery to businesses.

[7] See Appendix G for additional information.

IX. PROCESS FOR TRANSFER OF WORKFORCE RELATED SERVICES

The budget language requires that the Secretary of Commerce and Trade "*develop a process to transfer the workforce-related service activities of the Department of Business Assistance to the Virginia Economic Development Partnership.*"

The transfer of workforce related services from DBA to VEDP (applicable to Permutations 2, 4, 7, and 8) would require several actions relating to the transfer of personnel, office space modifications, as well as a change in budget authority for the VJIP Program.

The budgetary and personnel implications for such a move would include the transfer of 16 staff involved in the administration of the VJIP grant program from DBA to VEDP. The grant funds would be transferred from the DBA budget to the Secretary of Commerce and Trade budget. All personnel transferred from DBA to VEDP would no longer serve as classified employees, but rather would serve at the pleasure of the VEDP Executive Director.

In addition, the salaries for the grant fund administrators would need to be transferred from the DBA budget to the VEDP budget. Under this scenario, those 4 individuals would no longer serve as classified employees but rather would serve at the pleasure of the VEDP Executive Director.

In order to ensure an effective transfer of the VJIP program from DBA to VEDP, there exists a need to incorporate into the Appropriations Act language that outlines the transfer of the VJIP grant administrator positions to VEDP rather than specifying that a certain number of FTE's would need to be transferred. Unlike DBA, VEDP is not subject to the Personnel Act.

In addition, VEDP would need to adjust its leasing costs and office reconfiguration in order to accommodate the addition of the new personnel transferred from DBA.

X. GOALS AND OBJECTIVES OF THE NEW AGENCY

The budget language also requires that the Secretary of Commerce and Trade conduct an analysis that *"shall include, but not be limited to, establishing the goals of the new agency; measurable objectives to assess the future performance of the agency; the strategies to carry out the objectives; and identification and description of the activities and services to be reorganized, enhanced, curtailed, or eliminated."*

Option 1: Consolidation of DBA into VEDP

If DBA were merged entirely into VEDP, the new agency's charter would have to be changed to include not only the mission of VEDP (recruitment and retention of Virginia businesses by providing economic development incentives and strategic marketing initiatives) but also that of DBA (workforce development incentives and small business promotion and financing) .

The new agency would strive to provide a more seamless delivery of economic development incentives to businesses due to the closer alignment of VEDP services and the VJIP program.

The new agency would oversee several small business initiatives and programs including the VSBFA and the Business Information Services efforts. This expanded portfolio would enable the agency to develop service delivery goals that meet the needs of new and existing businesses of varying sizes.

Lastly, in the event that the VSBFA were to move to VEDP, there may exist a need for VEDP to review the VSBFA loan portfolio in order to determine future obligations for purposes of financial planning.

Option 2: Transfer of VJIP Program (only) from DBA to VEDP

If VJIP were transferred from DBA to VEDP, the new agency (VEDP plus VJIP) would continue to manage the Commonwealth's economic development recruitment, marketing, and incentive programs. The new agency's incentive portfolio might be delivered more seamlessly due to the addition of the VJIP program. The new agency would strive to become more of a one-stop shop for businesses looking to locate, relocate, or expand in Virginia.

The current process for the administration of the VJIP program would remain intact. However, VEDP would need to ensure that an appropriate grant fund accounting system exists to ensure that grant commitments do not exceed available resources.

XI. FINDINGS

The work of the Study Group led to the emergence of two prevailing views, as follows:

1. The Study Group reached a consensus that keeping DBA intact made sense. Customer feedback through stakeholder groups such as the Small Business Advisory Board indicates that changes to current programs may dilute the delivery of services available to small businesses. The Group found that a replenishment of funding for the Providing Access to Capital for Entrepreneurs (P.A.C.E.) program in the amount of $150,000 per year in the 2008-2010 Biennium would allow DMBE to continue providing eligible businesses with financing services for working capital, expansion, equipment, agri-business, and other business needs. Lastly, the Group felt that the mission and scope of DMBE programs would be enhanced by changing the name of DMBE to the, "Office of Supplier Diversity" in order to emphasize DMBE's role in expanding the diversity of Commonwealth suppliers. [7]

2. The Study Group found that if a realignment of programs is necessary, the most logical action would involve only the transfer of the VJIP program from DBA to VEDP. As an incentive program, VJIP fits well into VEDP's overall marketing and recruitment strategies. In the event that VJIP were to be transferred to VEDP, the remaining DBA programs and entities including the Virginia Small Business Financing Authority, the Virginia Business Information Center, Entrepreneur Express, and Existing Business Services should remain intact within a new "Department of Small Business

[7] See Appendix G for additional details.

Development." This renamed agency would provide small business counseling and mentoring services to entrepreneurs and emerging companies. In addition, these programs could align well together as they do not work directly with VEDP and fall outside the current scope and mission of VEDP.

3. The Study Group found that there exists a strong need to maintain or expand current funding levels for small business assistance, as any reductions would inhibit the growth and expansion potential of such businesses once the economy rebounds. The Commonwealth must position its small businesses to take advantage of future growth opportunities.

4. The Study Group found that Virginia businesses might be well served by having at their disposal a Commonwealth ombudsman that would strengthen the interaction between business and state government while providing clarity on services available. During a time when funding for business services has steadily been reduced, the Ombudsman office could help reassure citizens that the Commonwealth remains committed to meeting the needs of businesses.

5. Pursuant to the Budget language, the Study Group examined the possibility of consolidating DBA into DMBE. The Group found that such action would interfere with DMBE's mission of enhancing supplier diversity in the Commonwealth through the growth of SWaM businesses and therefore did not recommend such action.

XII. RECOMMENDATIONS

1. The Department of Business Assistance should not be consolidated in whole or in part into either the Virginia Economic Development Partnership or the Department of Minority Business Enterprise. All three agencies have a unique mission and service delivery focus. Consequently, this arrangement enables agency programs to address the specific needs of a diverse clientele including business owners, local economic development officials, and large enterprises. Because the estimated savings are only in the range of $700,000 per year, and because there was no compelling evidence presented that the current structure is insufficient to meet the needs of Virginia businesses, the status quo should be maintained. DBA acts a "champion" for Virginia's small businesses, and the negative effects of diluting the strength of this important small business advocate outweigh the potential cost savings resulting from consolidation.

2. The Department of Minority Business Enterprise should be renamed as the "Office of Supplier Diversity" in order to emphasize the agency's focus on expanding the Commonwealth's supplier diversity program.

3. If resources are available, funding for the Providing Access to Capital for Entrepreneurs (P.A.C.E.) program should be replenished in the amount of $150,000 per year in the 2008-2010 Biennium in order to allow DMBE to continue providing eligible businesses with financing for working capital, expansion, equipment, agri-business, and other business needs.

List of Appendices

Appendix A – House Bill 1522

http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+HB1522

Appendix B – May 22, 2008 Revised Memorandum from Secretary Gottschalk

Appendix C – Financial Rough Cut Document

Appendix D – Public Comments

Appendix E – States Workforce and Economic Development Services Budgets

Appendix F – Statement from the Virginia Economic Developers Association regarding the realignment of the Department of Business Assistance

Appendix G – Letter from Secretary of Administration to Secretary Gottschalk, dated August 7, 2008

Appendix H – Letter from Director of Department of Business Assistance to Secretary Gottschalk, dated August 22, 2008

Appendix I – Memo from DMBE on PACE Program Funding, dated September 8, 2008

Appendix A – House Bill 1522

HOUSE BILL NO. 1522

Offered January 18, 2008

A BILL to amend and reenact §§ 2.2-204, 2.2-205.1, 2.2-2238.1, 2.2-2282, 2.2-2284, 2.2-2413, 2.2-2414, 2.2-3705.6, 3.1-18.10, 10.1-1425.7, 15.2-4904, 23-135.7:7, 33.1-221, 36-139.6, 46.2-749.69:1, 58.1-439.6, 58.1-439.8, 63.2-601, and 63.2-610 of the Code of Virginia, to amend the Code of Virginia by adding in Article 4 of Chapter 22 of Title 2.2 sections numbered 2.2-2246.1 through 2.2-2246.4, and to repeal Chapter 9 (§§ 2.2-900 through 2.2-904.1) of Title 2.2 of the Code of Virginia, relating to the abolition of the Department of Business Assistance; Virginia Economic Development Partnership.

Patrons-- Massie, Abbitt, Cox, Joannou, Jones, S.C., Landes, Phillips, Putney, Sherwood and Suit

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Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-204, 2.2-205.1, 2.2-2238.1, 2.2-2282, 2.2-2284, 2.2-2413, 2.2-2414, 2.2-3705.6, 3.1-18.10, 10.1-1425.7, 15.2-4904, 23-135.7:7, 33.1-221, 36-139.6, 46.2-749.69:1, 58.1-439.6, 58.1-439.8, 63.2-601, and 63.2-610 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 22 of Title 2.2 sections numbered 2.2-2246.1 through 2.2-2246.4 as follows:

§ 2.2-204. Position established; agencies for which responsible; additional duties.

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: ~~Department of Business Assistance,~~ Virginia Economic Development Partnership Authority, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Minority Business Enterprise, Virginia Housing Development Authority, Virginia Resources Authority, Virginia Racing Commission, Tobacco Indemnification and Community Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

§ 2.2-205.1. Economic Crisis Strike Force.

A. There is hereby established the Economic Crisis Strike Force (Strike Force) for the purpose of serving as a working group to respond as needed to economic disasters in Virginia communities by (i)

immediately providing a single point of contact for citizens in affected communities to assist with accessing available government and private sector services and resources, (ii) assisting localities in developing short-term and long-term strategies for addressing the economic crisis, and (iii) identifying opportunities for workforce retraining, job creation, and new investment.

B. The Strike Force shall be chaired by the Secretary of Commerce and Trade and be deployed at the direction of the Governor. Membership shall include high level representatives designated by the Secretaries of Education and Health and Human Resources and by the respective heads of the following agencies: the Department of Agriculture and Consumer Services, ~~the Department of Business Assistance,~~ the Department of Education, the Department of Housing and Community Development, the Department of Labor and Industry, the Department of Medical Assistance Services, the Department of Minority Business Enterprise, the Department of Social Services, the Virginia Community College System, the Virginia Employment Commission, the Virginia Economic Development Partnership, and the Virginia Tourism Authority. The Strike Force shall also include representatives from such other agencies as may be designated by the Governor to meet the needs of a particular affected community. In addition, the Governor may designate such citizens as he deems appropriate to advise the Strike Force.

C. Staff support for the Strike Force shall be provided by the Office of the Governor and the Secretary of Commerce and Trade. All agencies of the Commonwealth shall assist the Strike Force upon request.

D. On or before December 1 of each year, the Strike Force shall report to the Governor and the General Assembly on its activities.

E. For the purposes of this section, "economic disaster" means an employment loss of at least 5% during the immediately preceding six-month period, the closure or downsizing of a major regional employer in an economically distressed area, a natural disaster or act of terrorism for which the Governor has declared a state of emergency, or other economic crisis situations, which in the opinion of the Governor adversely affect the welfare of the citizens of the Commonwealth.

§ 2.2-2238.1. Special economic development services in rural communities; strategic plan.

A. In order to assist the rural communities of the Commonwealth, the Authority shall develop a program for reviewing existing economic development programs of rural communities, upon request. The program shall include (i) a review and evaluation of existing industrial sites and infrastructure, including existing streets, water and sewer systems, electricity, natural gas and communications facilities that will provide high-speed or broadband Internet access to rural and underserved areas of the Commonwealth; (ii) an assessment of the existing workforce and the provision of information on state and federal programs such as tax incentives that may be available to local or prospective employers to assist in hiring and training in areas of high unemployment; (iii) assistance in identifying community resources and the type of industries that may benefit from locating in a community with such resources; and (iv) marketing assistance to help rural communities improve their visibility to expanding industries looking for new facilities.

B. The Authority, the Center for Rural Virginia, the Virginia Department of Housing and Community Development, the Virginia Resources Authority, ~~the Virginia Department of Business Assistance,~~ the

Virginia Tobacco Indemnification and Community Revitalization Commission, the Virginia Employment Commission, the Virginia Tourism Corporation, the Virginia Community College System, institutions of higher education within rural regions of the Commonwealth, and the Department of Agriculture and Consumer Services shall jointly develop and implement a rural economic development strategic plan that at a minimum addresses: (i) education, including pre-kindergarten, primary, secondary and post-graduate resources, and comprehensive workforce development programs, as they may pertain to the Workforce Investment Act; (ii) infrastructure, including capital for water and sewer upgrading, waste management, law enforcement, housing, primary and secondary roads, and telecommunications; (iii) traditional industrial development and industry retention programs, including assistance in financing and in workforce training; (iv) recreational and cultural enhancement and related quality of life measures, including parks, civic centers, and theaters; (v) agribusiness incentives to promote the use of new technologies, and the exploration of new market opportunities; and (vi) a revolving loan fund or loan guarantee program to help start or expand entrepreneurial activities, especially small business activities in rural communities.

§ 2.2-2246.1. Additional duties of the Authority; state agencies to furnish information.

A. The Authority shall serve as the liaison between the Commonwealth's existing business community and state government in order to promote the development of Virginia's economy. To that end, the Authority shall:

1. Provide for training or retraining of individuals for specific employment opportunities at new or expanding business facilities in the Commonwealth;

2. Develop and implement programs to assist small businesses in the Commonwealth in order to promote their growth and the creation and retention of jobs for Virginians;

3. Establish an industry program that is the principal point of communication between basic employers in the Commonwealth and the state government that will address issues of significance to business;

4. Make available to existing businesses, in conjunction and cooperation with localities, chambers of commerce, and other public and private groups, basic information and pertinent factors of interest and concern to such businesses;

5. Develop statistical reports on job creation and the general economic conditions in the Commonwealth; and

6. Adopt regulations and issue guidelines necessary or incidental to the performance of the duties or execution of the powers conferred pursuant to this section and §§ 2.2-2246.2, 2.2-2246.3, and 2.2-2246.4, which regulations shall be adopted by the Authority in accordance with the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act.

B. All agencies of the Commonwealth shall assist the Authority upon request and furnish such information and assistance as the Authority may require in the discharge of its duties.

§ 2.2-2246.2. Nonstock corporation to assist small businesses.

The Authority may establish a nonstock corporation under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 as an instrumentality to assist the Authority in providing support to the small business segment of the economy of the Commonwealth. The Authority may do all things necessary to qualify such corporation as a certified development company under Subchapter V of the Small Business Investment Act of 1958 (15 U.S.C. § 695 et seq.), or any amendment or successor statute thereto, as well as regulations adopted thereunder by the United States Small Business Administration. Any action by the Department to establish such a corporation prior to July 1, 1986, is ratified and approved.

§ 2.2-2246.3. Workforce Retraining Program and Fund.

A. The Authority shall develop a program to provide consulting services and funding to assist companies and businesses with retraining their existing workforces to increase productivity.

B. There is hereby established in the state treasury a special nonreverting fund to be known as the Workforce Retraining Fund. The Fund shall consist of any moneys appropriated thereto by the General Assembly from time to time and designated for the Fund. Any moneys deposited to or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund and be available for allocation under this article in ensuing fiscal years.

C. To be eligible for moneys from the Fund, a company shall:

1. Demonstrate that it is undergoing integration of new technology into its production process, a change of product line in keeping with marketplace demands, or substantial change to its service delivery process that would require assimilation of new skills and technological capabilities by the firm's existing labor force;

2. Demonstrate that, for each such integration of new technology into its production process, change of product line in keeping with marketplace demands, or substantial change to its service delivery process:

a. No less than 10 and no more than 200 full-time employees are involved; and

b. A minimum capital investment of $500,000 is committed within a 12-month period;

3. Certify that:

a. The company has not received moneys from the Fund in the previous 24 months;

b. The company counted only full-time employees to qualify for the program; and

c. Such full-time employees carry a minimum pay rate of $8 per hour; and

4. Meet such additional criteria as may be promulgated by the Authority.

D. As used in this section:

"Capital investment" means an investment in real property, personal property, or both, at a manufacturing or basic nonmanufacturing facility within the Commonwealth that is capitalized by the company and that increases the productivity of the manufacturing facility, results in the utilization of a more advanced technology than is in use immediately prior to such investment, or both. In order to qualify as a capital investment, an investment in technology shall result in a measurable increase in capacity or productivity, a measurable decrease in the production of flawed product, or both.

"Full-time employee" means a natural person employed for indefinite duration, requiring a minimum of either (i) 35 hours of the employee's time per week for the entire normal year, which "normal year" must consist of at least 48 weeks or (ii) 1,680 hours per year. Seasonal or temporary employees shall not qualify as new full-time employees under this section.

E. Moneys in the Fund shall be used solely for grants to eligible businesses as provided in this section. The total amount of funds provided to eligible businesses under this section for any year shall not exceed the amount appropriated by the General Assembly to the Fund for such year. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director or his designee. The Fund shall be administered by the Executive Director.

§ 2.2-2246.4. One-stop small business permitting program.

A. As used in this section:

"Authority" means the Virginia Economic Development Partnership Authority.

"Business Permitting Center" or "Center" means the business registration and permitting center established by this section and located in and under the administrative control of the Authority.

"Comprehensive application" means a document incorporating pertinent data from existing applications for permits covered under this section.

"Comprehensive permit" means the single document designed for public display issued by the Business Permitting Center that certifies state agency permit approval and that incorporates the endorsements for individual permits included in the comprehensive permitting program.

"Comprehensive permitting program" or "Program" means the mechanism by which comprehensive permits are issued and renewed, permit and regulatory information is disseminated, and account data are exchanged by state agencies.

"Executive Director" means the Executive Director of the Virginia Economic Development

Partnership Authority.

"Permit" means the whole or part of any state agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, to engage in activity associated with or involving the establishment of a small business in the Commonwealth.

"Permit information packet" means a collection of information about permitting requirements and application procedures custom assembled for each request.

"Regulatory" means all permitting and other governmental or statutory requirements establishing a small business or professional activities associated with establishing a small business.

"Regulatory agency" means any state agency, board, commission, or division that regulates one or more professions, occupations, industries, businesses, or activities.

"Renewal application" means a document used to collect pertinent data for renewal of permits covered under this section.

"Small business" means an independently owned and operated business that, together with affiliates, has 250 or fewer employees or average annual gross receipts of $10 million or less averaged over the previous three years.

B. There is created within the Authority the comprehensive permitting program (the Program). The Program is established to serve as a single access point to aid entrepreneurs in filling out the various permit applications associated with establishing a small business in Virginia. The Program in no way supersedes or supplants any regulatory authority granted to any state agency with permits covered by this section. As part of the Program, the Authority shall coordinate with the regulatory agency, and the regulatory agency shall determine, consistent with applicable law, what types of permits are appropriate for inclusion in the Program as well as the rules governing the submission of and payment for those permits. The website of the Authority shall provide access to information regarding the Program. The Authority shall have the power and duty to:

1. Create a comprehensive application that will allow an entrepreneur, or an agent thereof, seeking to establish a small business, to create accounts that will allow them to acquire the appropriate permits required in the Commonwealth. The comprehensive application shall:

a. Allow the business owner to choose a business type and to provide common information, such as name, address, and telephone number, on the front page, eliminating the need to repeatedly provide common information on each permit application;

b. Allow the business owner to preview and answer questions related to the operation of the business;

c. Provide business owners with a customized to-do agency checklist, which checklist shall provide the permit applications pertinent to each business type and provide the rules, regulations, and general laws applicable to each business type as well as local licensing information;

d. Allow the business owner to submit permit applications by electronic means as authorized by § 59.1-496 and to affix thereto his electronic signature as defined in § 59.1-480;

e. Allow the business owner to check on the status of applications online and to receive information from the permitting agencies electronically; and

f. Allow a business owner to submit electronic payment for application or permitting fees for applications that have been accepted by the permitting agency.

2. Develop and administer a computerized system program capable of storing, retrieving, and exchanging permit information, while protecting the confidentiality of information submitted to the Authority to the extent allowable by law. Information submitted to the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) as the same would apply were the information submitted directly to the Authority or to any permitting agency.

3. Issue and renew comprehensive permits in an efficient manner.

4. Identify the types of permits appropriate for inclusion in the Program. The Authority shall coordinate with the regulatory agency, and the regulatory agency shall determine, consistent with applicable law, what types of permits are appropriate for inclusion in the Program.

5. Incorporate permits into the Program.

6. Do all acts necessary or convenient to carry out the purposes of this chapter.

C. The Business Permitting Center shall compile information regarding the regulatory programs associated with each of the permits obtainable under the Program. This information shall include, at a minimum, a listing of the statutes and administrative rules requiring the permits and pertaining to the regulatory programs that are directly related to the permit. The Center shall provide information governed by this section to any person requesting it. Materials used by the Center to describe the services provided by the Center shall indicate that this information is available upon request.

D. Each state agency shall cooperate and provide reasonable assistance to the Authority in the implementation of this section.

E. Any person requiring permits that have been incorporated into the Program may submit a comprehensive application to the Authority requesting the issuance of the permits. The comprehensive application form shall contain in consolidated form information necessary for the issuance of the permits.

F. The applicant shall include with the application the handling fee established by the Authority. The amount of the handling fee assessed against the applicant shall be set by the Authority at a level necessary to cover the costs of administering the comprehensive permitting program.

G. The authority for approving the issuance and renewal of any requested permit that requires an investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise

legally authorized to issue the permit shall remain with that agency. The Center may issue those permits for which proper fee payment and a completed application form have been received and for which no approval action is required by the regulatory agency.

H. Upon receipt of the application and proper fee payment for any permit for which issuance is subject to regulatory agency action under subsection G, the Authority shall immediately notify the regulatory agency with authority to approve the permit issuance or renewal requested by the applicant. Each regulatory agency shall advise the Authority within a reasonable time after receiving the notice of one of the following:

1. That the regulatory agency approves the issuance of the requested permit and will advise the applicant of any specific conditions required for issuing the permit;

2. That the regulatory agency denies the issuance of the permit and gives the applicant reasons for the denial;

3. That the application is pending; or

4. That the application is incomplete and further information from or action by the applicant is necessary.

I. The Authority shall issue a comprehensive permit endorsed for all the approved permits to the applicant and advise the applicant of the status of other requested permits. The applicant shall be responsible for contesting any decision regarding conditions imposed or permits denied through the normal process established by statute or by the regulatory agency with the authority for approving the issuance of the permit.

J. Regulatory agencies shall be provided information from the comprehensive application for their permitting and regulatory functions.

K. The Authority shall be responsible for directing the applicant to make all payments for applicable fees established by the regulatory agency directly to the proper agency.

L. There is hereby created in the state treasury a special nonreverting fund to be known as the Comprehensive Permitting Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of all moneys collected from the handling fee established by the Authority pursuant to subsection F and such other funds as may be appropriated by the General Assembly. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to administer the Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Authority.

M. Unless otherwise directed by the regulatory agency, the Authority shall not issue or renew a

comprehensive permit to any person under any of the following circumstances:

1. The person does not have a valid tax registration, if required.

2. The person is a corporation, limited liability company, business trust, limited partnership or registered limited liability partnership that (i) is delinquent in the payment of fees or penalties collected by the State Corporation Commission pursuant to the business entity statutes it administers; (ii) does not exist; or (iii) is not authorized to transact business in the Commonwealth pursuant to one of the business entity statutes administered by the State Corporation Commission.

3. The person has not submitted the sum of all fees and deposits required for the requested individual permit endorsements, any outstanding comprehensive permit delinquency fee, or other fees and penalties to be collected through the comprehensive permitting program.

§ 2.2-2282. Board of directors; membership; terms, compensation and expenses; chairman, vice-chairman, secretary and treasurer; quorum; staff.

A. The Board shall consist of the State Treasurer or his designee, the ~~Director of the Department of Business Assistance,~~ *Executive Director of the Virginia Economic Development Partnership Authority,* and nine members who are not employees of the Commonwealth or of any political subdivision thereof who shall be appointed by the Governor and who shall have such small business experience as he deems necessary or desirable. The appointment of members of the Board by the Governor shall be subject to confirmation by the General Assembly. All members of the Board shall be residents of the Commonwealth and shall have full voting privileges. Appointments shall be for terms of four years, except that appointments to fill vacancies shall be made for the unexpired terms. No member appointed by the Governor shall serve more than two complete terms in succession. The members of the Board shall receive no salaries but shall be paid travel and other expenses incurred to attend meetings or while otherwise engaged in the discharge of their duties, all as may be deemed appropriate by the Board.

B. The Governor shall appoint one member as chairman. Five members of the Board shall constitute a quorum for the transaction of all business of the Authority. The Board shall elect one member from the group of nine members appointed by the Governor as vice-chairman who shall exercise the powers of the chairman in the absence of the chairman. The Board shall elect a secretary and a treasurer, or a secretary-treasurer, who need not be members of the Board and who shall continue to hold such office until their respective successors are elected. The ~~Department of Business Assistance of the Commonwealth~~ *Virginia Economic Development Partnership Authority* shall serve as staff to the Authority.

§ 2.2-2284. Executive Director; appointment; duties.

The *Executive* Director of the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* shall appoint the Executive Director of the Authority. The Executive Director shall administer, manage and direct the affairs and activities of the Authority in accordance with the policies and under the control and the direction of the Board and the *Executive* Director of the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority*. Except as

otherwise stated in this article, the Executive Director shall approve all accounts for allowable expenses for the Authority or of any employee or consultant or other person providing services to the Board, and for expenses incidental to the operation of the Authority subject to approval of the *Executive* Director of the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority*. The Executive Director shall maintain and be custodian of all books, documents and papers of or filed with the Authority, including but not limited to the minute book or journal of the Authority, and of its official seal. The Executive Director may cause copies to be made of all minutes and other records and documents of the Authority and may in the place and stead of the Secretary of the Authority give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Executive Director also shall perform such other duties as prescribed by the Board in carrying out the purposes of this article.

§ 2.2-2413. Small Business Advisory Board; membership; terms; quorum; compensation.

A. The Small Business Advisory Board (the "Board") is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist of the following members: fourteen members appointed by the Governor and subject to confirmation by the General Assembly; the Chairman of the Small Business Financing Authority and the *Executive* Director of the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* and the District Director for Virginia of the U.S. Small Business Administration or their designees as nonvoting ex officio members. The appointed members of the Board shall represent small businesses as defined by the Small Business Financing Act (§ 2.2-2279 et seq.). There shall be at least one member appointed from each congressional district who does business in that district and three members appointed at large from within the Commonwealth.

B. Terms of the appointed members shall be for four years except that appointments to fill vacancies shall be for the unexpired terms. No member appointed by the Governor shall serve more than two complete terms in succession.

C. The Governor shall appoint one member of the Board to be chairman. The Board shall annually elect one of its members as vice-chairman, and shall also elect annually a secretary, who need not be a member of the Board. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. In the absence of both the chairman and the vice-chairman at any meeting, the Board shall elect a chairman pro tempore, who shall preside at such meeting.

D. The Board shall meet at least semiannually, at the call of the chairman, *Executive* Director of the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* or Governor or at the request of a majority of the Board members. A majority of the members of the Board shall constitute a quorum.

E. Members of the Board shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

§ 2.2-2414. Duties of the Board.

The Board shall advise the ~~Department of Business Assistance~~ *Virginia Economic Development*

Partnership Authority on the small business programs, including, but not limited to, locally based centers to assist and develop small businesses. It shall make recommendations to the Director, the Secretary of Commerce and Trade, and the Governor concerning the actions that the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* and the state government might take to enhance the growth of small businesses. Additionally, the Board shall be a resource to the Department of Business Assistance, the Secretary of Commerce and Trade, ~~the Executive Director of the Virginia Economic Development Partnership,~~ and the Governor as they conduct the economic development efforts of the Commonwealth.

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from ~~the Department of Business Assistance, t~~he Virginia Economic Development Partnership, the Virginia Tourism Authority, the Tobacco Indemnification and Community Revitalization Commission, a nonprofit, nonstock corporation created pursuant to § 2.2-2240.1, or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, the Authority, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by such entities, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for

energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection D of § 2.2-4342 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the records specified in clauses (i), (ii) and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and Infrastructure Act of 2002.

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

13. Confidential proprietary records that are provided by a franchisee under Article 1.2 (§ 15.2-2108.19 et seq.) of Chapter 21 of Title 15.2 to its franchising authority pursuant to a promise of confidentiality from the franchising authority that relates to the franchisee's potential provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason

why protection is necessary.

14. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Charitable Gaming pursuant to subsection E of § 18.2-340.34.

15. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to §§ 3.1-622 and 3.1-624.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

18. Confidential proprietary records and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that disclosure of such records would be harmful to the competitive position of the locality. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (i) invoke the protections of this subdivision, (ii) identify with specificity the records or portions thereof for which protection is sought, and (iii) state the reasons why protection is necessary.

19. Confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that records required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial records of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Minority Business Enterprise as part of an application for (i) certification as a small, women- or minority-owned business in accordance with Chapter 14 (§ 2.2-1400 et seq.) of this title or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why

protection is necessary.

§ 3.1-18.10. Powers and duties of Office of Farmland Preservation.

The Office of Farmland Preservation shall have the following powers and duties:

1. To develop, in cooperation with the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority*, the Virginia Farm Bureau Federation, the American Farmland Trust, the Virginia Land Conservation Foundation, the Virginia Outdoors Foundation, the Virginia Association of Counties, and the Virginia Cooperative Extension, (i) model policies and practices that may be used as a guide to establish local purchase of development rights programs; (ii) criteria for the certification of local purchase of development rights programs as eligible to receive grants, loans or other funds from public sources; and (iii) methods and sources of revenue for allocating funds to localities to purchase agricultural conservation easements;

2. To create programs to educate the public about the importance of farmland preservation to the quality of life in the Commonwealth;

3. To provide technical, professional, and other assistance to farmers on matters related to farmland preservation; and

4. To administer the Virginia Farm Link program established pursuant to § 3.1-18.11.

§ 10.1-1425.7. Duty of the Virginia Economic Development Partnership Authority.

The ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* shall assist the Department by encouraging and promoting the establishment of appropriate recycling industries in the Commonwealth.

§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by

the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, however, the town council may at its option return to a seven member board by removing the last three members appointed, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow $2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members, Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one at-large, with terms staggered as agreed upon by the board of supervisors, and Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority.

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority, or is absent from any four meetings of the authority within any 12-month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except in towns under 3,500 people where members of the town governing body may serve as directors provided they do not comprise a majority of the board. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed $200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority.*

§ 23-135.7:7. Advisory Committee continued as Advisory Board.

The Virginia Coal Research and Development Advisory Committee is continued and shall hereafter be known as the Virginia Coal Research and Development Advisory Board. The Advisory Board shall serve in an advisory capacity to the Executive Director of the Virginia Center for Coal and Energy Research.

1. The Advisory Board shall be authorized to advise on those matters set forth in § 23-135.7:2.

2. Representatives to the Advisory Board shall be appointed by the Board of Visitors of Virginia Polytechnic Institute and State University.

3. The Board of Visitors of Virginia Polytechnic Institute and State University shall also appoint such other individuals as they deem necessary to the work of the Advisory Board.

4. Representatives from the Department of Conservation and Historic Resources, the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority*, the Department of Mines, Minerals and Energy, the Department of Labor and Industry, the Virginia Port Authority, the institutions of higher education, excluding Virginia Polytechnic Institute and State University, and the Community College System shall serve as the Advisory Board.

§ 33.1-221. Funds for access roads to economic development sites and airports; construction, maintenance, etc., of such roads.

A. Notwithstanding any other provision of law, there shall be appropriated to the Commonwealth Transportation Board funds derived from taxes on motor fuels, fees and charges on motor vehicle registrations, road taxes or any other state revenue allocated for highway purposes, which shall be used by the Board for the purposes hereinafter specified, after deducting the costs of administration before any of such funds are distributed and allocated for any road or street purposes.

Such funds shall be expended by the Board for constructing, reconstructing, maintaining or improving access roads within counties, cities and towns to economic development sites on which manufacturing, processing, research and development facilities, distribution centers, regional service centers, corporate headquarters, or other establishments that also meet basic employer criteria as determined by the Virginia Economic Development Partnership ~~in consultation with the Virginia Department of Business~~

~~Assistance~~ will be built under firm contract or are already constructed and to licensed, public-use airports; in the event there is no such establishment or airport already constructed or for which the construction is under firm contract, a county, city, or town may guarantee to the Board by bond or other acceptable device that such will occur and, should no establishment or airport acceptable to the Board be constructed or under firm contract within the time limits of the bond, such bond shall be forfeited. The time limits of the bond shall be based on regular review and consideration by the Board. Towns which receive highway maintenance payments under § 33.1-41.1 shall be considered separately from the counties in which they are located when receiving allocations of funds for access roads.

B. In deciding whether or not to construct or improve any such access road, and in determining the nature of the road to be constructed, the Board shall base its considerations on the cost thereof in relation to the volume and nature of the traffic to be generated as a result of developing the airport or the economic development site. Within any economic development site or airport, the total volume of traffic to be generated shall be taken into consideration in regard to the overall cost thereof. No such access road shall be constructed or improved on a privately owned economic development site.

C. Any access road constructed or improved under this section shall constitute a part of the secondary system of state highways or the road system of the locality in which it is located and shall thereafter be constructed, reconstructed, maintained and improved as other roads in such system.

§ 36-139.6. Additional powers and duties of Director; oversight of planning district commissions.

The Director of the Department of Housing and Community Development shall have the following powers and duties relating to oversight of planning district commissions:

1. To recommend to the Governor the level of state general appropriation funding for each planning district commission, taking into consideration the minimum funding level necessary for operation, the population of each district, and other factors considered appropriate;

2. To distribute state general appropriation funding to planning district commissions consistent with the provisions of this chapter and Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2;

3. To administer the Regional Cooperation Incentive Fund in accordance with § 15.2-4217;

4. To provide technical assistance to planning district commissions regarding regional approaches to area-wide problems. Assistance may be initiated by the Department, individual local governments, or planning district commissions;

5. To require the submission of annual programmatic and financial information by each planning district commission in a format prescribed by the Director;

6. To prepare a biennial report to the Governor and the General Assembly which identifies the activities and other information deemed appropriate by the Director concerning planning district commissions, including findings as to planning district commissions which are not complying with Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2. Copies of the biennial report shall also be sent to the Commission on Local Government, ~~Department of Business Assistance,~~ Department of Conservation

and Recreation, Department of Environmental Quality, Department of Planning and Budget, Department of Transportation, Virginia Economic Development Partnership, and others upon request; and

7. To establish the Virginia Planning District Commission Council made up of the chairman or designated representative from each planning district commission to advise Department staff on programs, rules and regulations for the planning district commissions. Technical committees of planning district commission staff, state and local agency staff, and private sector individuals as needed, may be created.

§ 46.2-749.69:1. Special license plates bearing the names, numbers, and color schemes used by professional stock car drivers; fees.

A. On receipt of an application and payment of the fee prescribed by this section, the Commissioner shall issue special license plates to supporters of the Virginia Motor Sports Initiative.

B. The Commissioner may enter into agreements for the purchase of distinctive license plates bearing the name of a specific professional stock car driver and the race car number and color scheme used by that driver, or for distinctive general motor sports-themed license plates, for issuance as provided in this section. The design of such license plates shall be as mutually agreed by the Commissioner and the supplier of such license plates. The purchase price of such plates shall be as agreed between the Commissioner and the supplier or other entity, but shall in no case exceed a total, one-time cost of $15 for each set of license plates. In the event that a race car number, color scheme, or both, change for a driver with a currently issued series, a new series for that driver may be issued subject to the requirements of this section.

The provisions of subdivision B 1 of § 46.2-725 shall not apply to license plates issued under this section.

C. The annual fee for plates issued pursuant to this section shall be $25 in addition to the prescribed fee for state license plates. For each such $25 fee collected in excess of 1,000 registrations pursuant to this section, $15 shall be paid into the state treasury and credited to the special nonreverting fund known as the Virginia Motor Sports Initiative Fund established within the Department of Accounts and paid annually ~~in equal amounts~~ to the Virginia Economic Development Partnership Authority ~~and the Virginia Department of Business Assistance~~ and used to support ~~their~~ *the Authority's* programs related to the Virginia Motor Sports Initiative.

In calculating the amount to be paid into such fund each year, however, there shall be deducted an amount equal to the amount paid in that year by the Department for the purchase of license plates for which the additional $25 fees have been collected for that year.

§ 58.1-439.6. Worker retraining tax credit.

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic

development in the form of (i) noncredit courses at any of the Commonwealth's community colleges or a private school or (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Virginia Apprenticeship Council.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

B. For taxable years beginning on and after January 1, 1999, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of this title in an amount equal to thirty percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. However, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed $100 per qualified employee annually. The total amount of tax credits granted to employers under this section for each fiscal year shall not exceed $2,500,000.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. An employer shall be entitled to the credit granted under this section only for those courses at a community college or a private school which courses have been certified as eligible worker retraining to the Department of Taxation by the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority*. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), (i) establishing procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which shall include only those courses and programs that are substantially related to the duties of a qualified employee or that enhance the qualified employee's job-related skills, and that promote economic development, and (iii) providing for the allocation of credits among employers requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. The ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether a course or program qualifies as eligible worker retraining.

E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer that is subject to the

tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

F. No employer shall be eligible to claim a credit under this section for worker retraining undertaken by any program operated, administered, or paid for by the Commonwealth.

G. The *Executive* Director of the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* shall report annually to the chairmen of the House Finance and Senate Finance Committees on the status and implementation of the credit established by this section, including certifications for eligible worker retraining.

§ 58.1-439.8. Alternate tax credit for purchase of machinery and equipment for processing recyclable materials.

A. Beginning on and after January 1, 1998, a corporation making an investment of at least $350 million within the Commonwealth before January 1, 2003, shall be allowed a credit against the tax imposed pursuant to § 58.1-400 in an amount equal to ten percent of the purchase price paid during the taxable year for machinery and equipment used exclusively in or on the premises of manufacturing facilities or plant units which manufacture, process, compound, or produce items of tangible personal property from recyclable materials, within the Commonwealth, for sale. For purposes of determining "purchase price paid" under this section, the taxpayer may use the original total capitalized cost of such machinery and equipment, less capitalized interest. The Department of Environmental Quality shall certify that such machinery and equipment are integral to the recycling process before the corporation shall be entitled to the tax credit under this section. The ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* shall certify that the corporation has made the required investment within the Commonwealth. The ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* shall develop guidelines which define investment for purposes of this credit. The corporation shall also submit purchase receipts, invoices, and such other documentation as may be necessary to confirm the taxpayer's statement of purchase price paid, with the income tax return to verify the amount of purchase price paid for the recycling machinery and equipment.

B. The total credit allowed under this section in any taxable year shall not exceed sixty percent of the Virginia income tax liability of such taxpayer.

C. Any tax credit not used for the taxable year in which the purchase price on recycling machinery and equipment was paid may be carried over for credit against the corporation's income taxes in the twenty succeeding taxable years until the total credit amount is used.

D. A taxpayer claiming the tax credit provided by § 58.1-439.7 shall not be eligible for the tax credit provided by this section.

§ 63.2-601. Virginia Temporary Assistance for Needy Families Program; goals.

The goals of the Temporary Assistance for Needy Families Program are to:

1. Offer Virginians living in poverty the opportunity to achieve economic independence by removing barriers and disincentives to work and providing positive incentives to work;

2. Provide families living in poverty with the opportunities and work skills necessary for self-sufficiency;

3. Allow families living in poverty to contribute materially to their own self-sufficiency;

4. Set out the responsibilities of and expectations for recipients of public assistance and the government; and

5. Provide families living in poverty with the opportunity to obtain work experience through the Virginia Initiative for Employment Not Welfare (VIEW).

None of the provisions of this chapter shall be construed or interpreted to create any rights, causes of action, administrative claims or exemptions to the provisions of the Program, except as specifically provided in §§ 63.2-609, 63.2-613 and 63.2-618.

The ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority* and the Virginia Employment Commission shall assist the Department in the administration of the Program.

§ 63.2-610. Participation in VIEW; coordinated services.

A. In administering VIEW, the Department shall ensure that local departments provide delivery and coordination of all services through intensive case management. VIEW participants shall be referred to a case manager. The case manager shall fully explain VIEW to the participant and shall provide the participant with written materials explaining VIEW.

B. The Department shall assist local departments in improving the delivery of services, including intensive case management, through the utilization of public, private and nonprofit organizations, to the extent permissible under federal law.

C. The Department shall be responsible for the coordination of the intensive case management. Job finding and job matching leading to independent employment shall be facilitated by the Virginia Employment Commission and the ~~Department of Business Assistance~~ *Virginia Economic Development Partnership Authority*.

D. The Secretary of Health and Human Resources, assisted by the Secretary of Commerce and Trade, shall prepare and maintain an annual plan for coordinating and integrating all appropriate services in order to promote successful outcomes. The plan shall encourage the use of local and regional service providers and permit a variety of methods of providing services. Emphasis shall be placed on coordinating and integrating career counseling, job development, job training and skills, job placement, and academic and technical education. Public and private institutions of higher education and other

agencies which offer similar or related services shall be invited to participate as fully as possible in developing, implementing and updating the annual coordination plan.

E. The Secretary of Health and Human Resources shall:

1. Increase public awareness of the federal earned income credit and encourage families who may be eligible to apply for this tax credit;

2. Pursue aggressive child-support initiatives as established by the General Assembly;

3. Work with community providers to develop adoption, education, family planning, marriage, parenting, and training options for Program participants;

4. Increase public awareness of the tax advantages of relocating one's residence in order to secure employment;

5. Provide leadership for the development of community work experience opportunities in VIEW;

6. Develop strategies to educate, assist and stimulate employers to hire participants and to provide community work experience opportunities, in consultation with representatives of employers and relevant public and private agencies on the state and local level; and

7. Provide technical assistance to local departments to assist them in working with employers in the community to develop job and community work experience opportunities for participants.

2. That Chapter 9 (§§ 2.2-900 through 2.2-904.1) of Title 2.2 of the Code of Virginia is repealed.

3. That as of July 1, 2008, the Virginia Economic Development Partnership Authority shall be deemed successor in interest to the Department of Business Assistance Services to the extent that this act transfers powers and duties. All right, title, and interest in and to any real or tangible personal property vested in the Department of Business Assistance Services shall be transferred to and taken as standing in the name of the Virginia Economic Development Partnership Authority.

4. That the Governor may transfer an appropriation or any portion thereof within a state agency established, abolished, or otherwise affected by the provisions of this act, or from one such agency to another, to support the changes in organization or responsibility resulting from or required by the provisions of this act.

5. That all rules and regulations adopted by the Department of Business Assistance Services that are in effect as of July 1, 2008, and that pertain to the subject of this act, shall remain in full force and effect until altered, amended, or rescinded by the Virginia Economic Development Partnership Authority.

Appendix B – Revised Memorandum from Secretary Gottschalk

TO: Members of the DBA Study Group and Other Interested Parties

FROM: Patrick O. Gottschalk

DATE: May 22, 2008

SUBJECT: DBA/VEDP Study

I. Background and Context

HB 1522 was introduced during the 2008 General Assembly session and called for the abolition of the Department of Business Assistance and the subsequent transfer of its programs to the Virginia Economic Development Partnership. This measure passed the House of Delegates but was passed by indefinitely in the Senate Commerce and Labor committee.

Although HB 1522 was not adopted by the General Assembly, Paragraph G of Item 105, Chapter 897, 2008 Acts of Assembly (2008 Appropriation Act) requires the Secretary of Commerce and Trade to conduct an analysis of possible costs savings that could be generated by consolidating the Department of Business Assistance into another agency within the Commerce and Trade secretariat. This section tasks the Secretary of Commerce and Trade with the responsibility of, "evaluating the efficacy of and the financial and programmatic efficiencies that could be generated by consolidating the Department of Business Assistance into an appropriate agency within the Commerce and Trade Secretariat."

Pursuant to the requirements outlined above, the Secretary of Commerce and Trade will form a Study Group that will make recommendations to the Secretary on possible strategies. The Secretary will then prepare a report based upon the Group's findings and consensus to the Chairs of the House Appropriations and Senate Finance Committees no later than November 1, 2008. This report will seek to educate members on the programs and services provided to citizens by all three agencies.

II. Study Group Membership

The proposed Study Group would consist of the following members: Secretary Gottschalk (Chair), Secretary of Administration, Viola Baskerville, Senior Workforce Advisor Danny LeBlanc, Hugh Keogh (President of the Virginia Chamber of Commerce), Oliver Singleton (President of the Metropolitan Business League), Matthew James (President of the Virginia Economic Developers Association), Robert Nealon (Chairman of the Governor's Small Business Advisory Board), and Bryce Jewett (Jewett Automation).

The Study Group would be staffed by Deputy Secretaries of Commerce and Trade Lyn Hammond and David Smith along with Assistant Secretary Alleyn Harned and Special Assistant Alex Daniel.

The study will also be staffed by agency representatives from DMBE, VEDP, DBA, and DPB. Other

agency representatives may appear before the Study Group to offer input and testimony on an as-needed basis. Proposed staff leaders would be Rob McClintock and Jack Nelson (VEDP), Elizabeth Moran and Wayne Waldrop (DBA), and representatives from DMBE (TBD) and DPB (Jerry Edwards/Toni Walker). Each of these individuals would attend all meetings.

III. Timeline

This information is included in final form in introductory section of study report.

IV. Possible Permutations to be examined by the Study Group

Permutation 1: VEDP, DBA and DMBE would continue to function as completely separate agencies with each keeping their existing programmatic portfolios. This arrangement would maintain the status quo.

Permutation 2: VEDP would be responsible for the administration of the Virginia Jobs Investment Program (formerly Workforce Services) rather than DBA. Under this arrangement, DBA would continue administering the remaining programs under its authority.

Permutation 3: VEDP would be responsible for the administration of the Virginia Jobs Investment Program rather than DBA. The remaining DBA programs would be transferred to DMBE with the resulting action being the creation of a new/reorganized agency focusing on all aspects of small business development.

Permutation 4: DBA would be fully absorbed into VEDP.

Permutation 5: The Virginia Jobs Investment Program as well as the Existing Business Services programs currently administered by DBA would be transferred to VEDP, with the remaining DBA programs going to DMBE.

Permutation 6: The small business financing services, existing business services, and workforce services programs within DBA would be transferred to VEDP, while the remaining SWAM services program within DBA would transfer to DMBE. This action would result in the creation of a new/reorganized agency that would be focused on SWAM business services and certification.

Permutation 7 : The Virginia Jobs Investment Program and the Existing Business Services programs within DBA would be transferred to VEDP. DMBE would remain intact. The DBA would be replaced with a Department of Small Business Development that would house the VSBFA as well as a group that would provide small business counseling and mentoring services to entrepreneurs and emerging companies.

V. Agency Core Programmatic Functions

Summaries of the core functions of DMBE, DBA and VEDP follow:

A. Department of Minority Business Enterprise

While § 2.2-204 of the Code of Virginia assigns the Department of Minority Business Enterprise (DMBE) to the Secretary of Commerce and Trade, this section also permits the Governor, by executive order, to assign any agency listed in this section to another secretariat.

On February 10, 2006, Governor Kaine issued Executive Order 10, thereby transferring Secretarial oversight responsibility from the Secretary of Commerce and Trade to the Secretary of Administration.

The Virginia Small Business Financing Authority (VSBFA) manages the Capital Access Fund for Disadvantaged Businesses for DMBE, determining the qualifications and conditions necessary for use of this fund. These monies are directed towards banks in order to encourage lending to business owners that have been put at a disadvantage in regards to access to capital.

DMBE also provides technical and management assistance to Virginia minority business enterprises through its Small, Women, and Minority (SWAM) business certification program. This initiative provides a variety of resources to enterprises wishing to take advantage of contracting opportunities with state and local governments.

Besides the SWAM certification program, DMBE also helps defray all or part of the costs of pilot or demonstration projects targeted at SWAM businesses that help empower these businesses to overcome the unique challenges that confront them.

DMBE has been charged with establishing a center for the development and dissemination of information necessary for establishing and promoting successful minority business enterprises. The agency has addressed this responsibility by working directly with all state agencies to develop agency-specific SWAM programs and initiatives that seek to increase the percentage of agency contracts with SWAM vendors.

Lastly, DMBE remains focused on providing minority and women-owned business with information on pursuing state and private sector contracting opportunities.

B. Department of Business Assistance

The Department of Business Assistance is charged with meeting its statutory functions pursuant to §2.2-900 et seq, Code of Virginia.

To this end, the Department operates several core programs including the Virginia Jobs Investment Program (VJIP). This economic development tool provides businesses with an incentive for training and or retraining of individuals for specific job opportunities at new or expanding business facilities in Virginia through partial worker training reimbursements. DBA's Workforce Retraining Program supports existing businesses in their efforts to equip their workforce with the skills necessary for success in Virginia's economy.

The Business Information Services Division (BIS) helps Virginia businesses get started and grow. The BIS offers technical assistance for entrepreneurs to navigate the 26 state agencies, 110 licensing, permitting and regulatory program and over 300 forms, thus accelerating economic activity. This

group is also leading the development of the Business One Stop, an interactive portal to determine business formation requirements and related forms completion. BIS also offers programs and one on one counseling sessions in 15 markets to stabilize businesses by helping them sell their product or service to the state.

DBA also assists small businesses in growth promotion as well as job creation and retention. The Department has oversight responsibility for the Virginia Small Business Financing Authority (VSBFA), an administrator of direct loan, loan guaranty, and conduit financing programs for Virginia small businesses.

The VSBFA administers a number of additional funds including the Virginia Capital Access Program (Virginia Small Business Growth Fund), the Capital Access Fund for Disadvantaged Businesses, the Small Business Environmental Compliance Assistance Fund, the State Direct Loan Program, the Loan Guaranty Program, the Child Care Financing Program, the Tobacco Commission Capital Access Program, the New Markets Tax Credit Loan Program, and the Industrial Development Bond Program.

DBA also staffs the Virginia Small Business Advisory Board. The seventeen-member Board is charged with providing advise, making recommendations and serving as a resource for small business issues to the Virginia Department of Business Assistance, the Secretary of Commerce and Trade, and the Governor. The Board includes small business representatives from the eleven congressional districts appointed by the Governor, three at large members and three additional state representatives.

C. Virginia Economic Development Partnership

Pursuant to 2.2-2238 of the Code of Virginia, VEDP seeks to promote economic growth in Virginia by focusing on the recruitment of new businesses to Virginia as well as the growth of Virginia's existing businesses.

VEDP operates several programs including its Business Development Program to provide comprehensive services to businesses looking to locate in Virginia as well as to Virginia businesses looking to expand their operations.

VEDP also maintains an International Trade and Investment Division that works with Virginia businesses looking to increase sales opportunities overseas as well as foreign companies looking to do business with Virginia firms.

VEDP operates the Virginia International Trade Alliance (VITAL), a public-private partnership that promotes foreign direct investment by providing Alliance members with strong marketing and networking opportunities.

VEDP administers several economic development funds including the Governor's Opportunity Development Fund (GOF) – deal-closing fund and the Virginia Investment Performance Grant Program (VIP). The VIP program consists of a number of sub funds including the Major Eligible Employer Grant sub fund, the Investment Performance Grant sub fund, and the Economic Development Incentive Grant (VEDIG) sub fund.

VEDP collects and analyzes data on Virginia's economic development capabilities through its Research Division and helps develop, along with all Commerce and Trade agencies, the comprehensive economic development strategic plan presented to the General Assembly at the beginning of each administration.

VI. Appendices

Appendix I attached hereto contains information about the base budget, positions available and offices of each of DBA, DMBE and VEDP, as provided for in the 2008 Appropriations Act. (*Corrected version of this appendix is included in discussions of the May 14 meeting.)*

Appendix II attached hereto contains the language in the 2008 Appropriations Act regarding the Study. (*This information is included in the introductory section of the Study report.)*

POG:afd

Appendix C – Financial Rough Cut Document

Assumptions for Permutation Analysis

1. As directed by the "Study Group," all scenarios presented in this document assume the Department of Minority Business Enterprise remains unchanged.
2. All existing client programs offered by VDBA and VEDP would continue at the current level of support.
3. Permutations #7 and #8 assume that a Business Retention and Expansion function will reside with either VEDP (#7) or VDBA (#8), however, there are no resources that would transfer to or from either organization for such purposes.
4. A fully functioning Business Retention and Expansion function would require resources in addition to those currently residing in either VEDP or VDBA. The estimated cost of those resources is: Professional Staff = $90,000-$70,000 salary and $20,000 (30%) benefits Support Costs (based on average support cost for VEDP marketing personnel) = $25,000- travel, training, supplies, technology hardware and software, Executive Pulse annual license, and materials.
5. Neither VEDP nor VDBA can commit to leased space until a final determination has been made to enact one of the Permutations. It should be noted that VDBA is currently on a month-to-month basis and has no signed lease at the time of this writing. DGS/DRES may be able to provide additional information on this matter.
6. Any final enactment should include implementation language that allows VEDP/VDBA to begin implementation no earlier than July 1, 2009, and conclude implementation by June 30, 2010.
7. Under all permutations, it was assumed that 16 VJIP FTE and 3 wage positions would transfer from VDBA to VEDP.
8. Under Permutation #4, it was assumed that 40 of the current 48 VDBA FTE and 4 wage positions would transfer from VDBA to VEDP. Four FTE would be eliminated because of the merger. One FTE will be moved to VITA due to an existing agreement with that agency and 8 FTE are currently vacant. Four of these positions are housed at the Highland Small Business Incubator in Abingdon and two positions telecommute.

Glossary of Acronyms

VDBA- The Virginia Department of Business Assistance
VEDP- The Virginia Economic Development Partnership
DMBE- The Virginia Department of Minority Business Enterprise
VJIP- Virginia Jobs investment program (a division within VDBA)
VSBFA- Virginia Small Business Financing Authority (a division within VDBA)
BIS- Business Information Services (a division within VDBA)
VDSBA - The Virginia Department of Small Business Assistance
BR&E – Business Retention and Expansion

Permutation #2-Priority #2

Permutation Description- VEDP would be responsible for the administration of the Virginia Jobs Investment Program (formerly Workforce Services) rather than DBA. Under this arrangement, DBA would continue administering the remaining programs under its authority.

Program Implications

- The VJIP program would continue to operate as it does today. Virginia's newly recruited and expanding businesses would experience a more seamless delivery of the state's economic development incentives due to the closer organizational alignment of VEDP and VJIP.
- While the VSBFA and BIS programs would continue to exist, the small size of the remaining entity would make it an easy target for continued consolidation or elimination.
- Certain other state programs for small businesses could be considered for transfer into VDBA.
- The Business Retention and Expansion contact program (Executive Pulse) would continue to be promoted by VEDP personnel.

Personnel Implications

- VDBA would lose its technical support staff which is currently being provided by VJIP personnel, which will require the hiring of a part time technical position (see VDBA "IT Personnel" costs below).

Real Estate Implications

- See Assumption #5.

Financial Implications

VEDP and VDBA Savings and Costs-Permutation # 2

VDBA	Savings	Costs	Net Savings (Costs)	Transfers In (Out)	Notes
DHRM Contract	7,800				Current DHRM Contract per DBA Staff
VITA Contract	37,500				Current VITA Contract per DBA Staff
Rent Reduction	72,720				Based on current lease and 16 VJIP staff
Moving Costs		(7,800)			Estimate based on VJIP FTE
VJIP FY10 Appropriation				(8,446,790)	Transfer from VDBA-Net of final reductions
IT Support		(35,000)			Half time staff to fulfill VITA on site staff requirement
VEDP					
IT Personnel		(35,000)			Half-time IT Technical position
IT First Year Costs		(78,800)			Hardware, software and infrastructure
IT Out Year Costs		(29,900)			Replacement hardware and software
Leasing Costs		(75,000)			10 staff x 300sf x 25/sf
Reconfigure/Upfit		(40,000)			10 staff x 4,000 per office
Media Production Room		(15,000)			VJIP Training Recordings
VJIP Appropriation				8,446,790	Transfer to VEDP
First Year (FY2010)	118,020	(316,500)	**(198,480)**	-	
Add Back One Time Costs		141,600	141,600		
Out Years (FY2011)	118,020	(174,900)	**(56,880)**		

Permutation # 4-Recommended Addition

Permutation Description- DBA would be fully absorbed into VEDP.

Program Implications-

- The VJIP program would continue to operate as it does today. Virginia's newly recruited and expanding businesses would experience a more seamless delivery of the state's economic development incentives due to the closer organizational alignment of VEDP and VJIP.
- VDBA Comment: With the consolidation of VSBFA (financing) and BIS (which provides assistance to early stage and small businesses), the new organization becomes a single point of contact for the entire spectrum of businesses, from start up to expansion to relocation. Virginia businesses have one organization/number to call for access to assistance and information.
- VEDP Comment: This would entail VEDP having a broader role for business assistance beyond its current programs of marketing and outreach for job and investment producing projects and export promotion.

Personnel Implications

- Currently VDBA has 48 FTE and 4 wage positions. For this Permutation, 40 FTE were assumed to transfer to VEDP (see Assumption #8).

Real Estate Implications

- See Assumption #5.

Financial Implications

- Note: Under this scenario, the savings generated from the salary reduction of the DBA director position would potentially be offset by the creation of a new "Division Director" position within VEDP.

VEDP and VDBA Savings, Costs, and Transfers-Permutation 4-Amended by SCT 8-15-08

VDBA	Savings	Costs	Net Savings (Costs)	Transfers In (Out)	Notes
DHRM Contract	25,000				Current DHRM Contract per DBA Staff
VITA Contract	120,000				Current VITA Contract per DBA Staff
Personnel Reductions					
Director	182,000	(23,700)			Assumes the Director has no prior State service
Deputy Director	106,500	(34,400)			
Receptionist	56,800	(47,700)			
Admin Director	118,600	(104,400)			
Other	338,129	(140,000)			Identified by SCT
Rent Reduction	215,000				Based on current lease
Moving Costs		(25,000)			Estimate based on 11/07 est. of 17,300 + 40%
VDBA Appropriation				(12,469,124)	Transfer from VDBA
VEDP					
IT & Telecom-First Year		(144,000)			Based on 30 staff (amended from 40 by SCT)
IT & Telecom-Out Years		(55,000)			Based on 30 staff (amended from 40 by SCT)
Leasing Costs		(195,000)			26 staff x 300sf x 25/sf (amended from 40 by SCT)
Reconfigure/Upfit		(104,000)			26 staff x 4,000 per office (amended from 40 by SCT)
Media Production Room		(15,000)			VJIP Training Recordings
Marketing/Printing Materials		(30,000)			
Personnel Additions					
Human Resources		(80,000)			One staff with benefits
Technology		(70,000)			One staff with benefits
Fiscal		(45,000)			50% staff
VDBA Appropriation				12,469,124	Transfer to VEDP
First Year (FY2010)	1,162,029	(1,113,200)	**48,829**	-	
Add Back One Time Costs		668,200	668,200		
Out Years (FY2011)	1,162,029	(445,000)	**717,029**		

Permutation # 7-Priority #1

Permutation Description-The Virginia Jobs Investment Program and the Business Retention and Expansion programs within DBA would be transferred to VEDP. DMBE would remain intact. The DBA would be replaced with a Virginia Department of Small Business Assistance that would house the VSBFA as well as a group that would provide small business counseling and mentoring services to entrepreneurs and emerging companies.

Program Implications

- The VJIP program would continue to operate as it does today. Virginia's newly recruited and expanding businesses would experience a more seamless delivery of the Commonwealth's economic development incentives due to the closer organizational alignment of VEDP and VJIP.
- VDBA would be renamed The Virginia Department of Small Business Assistance. While some branding turbulence would occur initially, the name would more accurately describe the services of the agency and be helpful in the long run. The size issue for the resulting new agency would continue to exist. Certain other state programs for small businesses could be considered for transfer into the new VDSBA.

Personnel Implications

- Assuming no reduction in current business programs at VDBA, no BR&E personnel are transferred under this permutation. VDBA has no personnel dedicated exclusively to calling on Business Retention and Expansion.
- VDBA would lose its technical support staff, which is currently being provided by VJIP personnel. This would require hiring a half-time IT person to fulfill the VITA on-site staff requirement.
- Current programs rely on businesses contacting DBA through a number of outreach efforts including VBIC, One Stop, Workshops, etc.

Real Estate Implications

- See Assumption #5

Financial Implications

VEDP and VDBA Savings and Costs-Permutation # 7

VDBA	Savings	Costs	Net Savings (Costs)	Transfers In (Out)	Notes
DHRM Contract	7,800				Current DHRM Contract per DBA Staff
VITA Contract	37,500				Current VITA Contract per DBA Staff
Rent Reduction	72,720				Based on current lease and 16 VJIP staff
Moving Costs		(7,800)			Estimate based on VJIP FTE
VJIP FY10 Appropriation				(8,446,790)	Transfer from VDBA-Net of final reductions
IT Support		(35,000)			Half time IT Staff to fulfill VITA on site staff requirement
VEDP					
IT Personell		(35,000)			Half-Time IT Technical position
IT First Year Costs		(78,800)			Hardware, software, and infrastructure
IT Out Year Costs		(29,900)			Replacement hardware and software
Leasing Costs		(75,000)			10 staff x 300sf x 25/sf
Reconfigure/Upfit		(40,000)			10 staff x 4,000 per office
Media Production Room		(15,000)			VJIP Training Recordings
VJIP Appropriation				8,446,790	Transfer to VEDP
First Year (FY2010)	118,020	(316,500)	**(198,480)**	-	
Add Back One Time Costs		141,600	141,600		
Out Years (FY2011)	118,020	(174,900)	**(56,880)**		

Permutation # 8-Priority #3

Permutation Description- The Virginia Jobs Investment Program would be transferred from DBA to VEDP. The VEDP Executive Pulse program would be transferred from VEDP to DBA.

Program Implications-

- The VJIP program would continue to operate as it does today. Virginia's newly recruited and expanding businesses would experience a more seamless delivery of the state's economic development incentives due to the closer organizational alignment of VEDP and VJIP.
- VEDP would have access to the Executive Pulse system.
- VDBA would market the concept to localities, train them on system usage and joint call as needed.

Personnel Implications

- VDBA could consider broadening the job description of the remaining staff in direct client contact roles to promote Executive Pulse.
- VDBA does not have the technical staff to support the Executive Pulse.

Real Estate Implications

- See Assumption #5

Financial Implications

VEDP and VDBA Savings and Costs-Permutation # 8

VDBA	Savings	Costs	Net Savings (Costs)	Transfers In (Out)	Notes
DHRM Contract	7,800				Current DHRM Contract per DBA Staff
VITA Contract	37,500				Current VITA Contract per DBA Staff
Rent Reduction	72,720				Based on current lease and 16 VJIP staff
Moving Costs		(7,800)			Estimate based on VJIP FTE
VJIP FY10 Appropriation				(8,446,790)	Transfer from VDBA-Net of final reductions
IT Support		(35,000)			Half time IT staff to fulfill VITA on site staff requirement
VEDP					
IT Personnel		(35,000)			Half-time IT Technical position
IT First Year Costs		(78,800)			Hardware, software, and infrastructure
IT Out Year Costs		(29,900)			Average cost of X 16 Staff
Leasing Costs		(75,000)			10 staff x 300sf x 25/sf
Reconfigure/Upfit		(40,000)			10 staff x 4,000 per office
Media Production Room		(15,000)			VJIP Training Recordings
VJIP Appropriation				8,446,790	Transfer to VEDP
First Year (FY2010)	118,020	(316,500)	**(198,480)**	-	
Add Back One Time Costs		141,600	141,600		
Out Years (FY2011)	118,020	(174,900)	**(56,880)**		

Appendix D – Public Comments

May 14, 2008
The Small Business Advisory Board expressed its desire for the Study Group to carefully evaluate the functions and missions of each agency when evaluating recommendations for possible programmatic changes.

In addition, the Board indicated that the Department of Business Assistance and the Small Business Financing Authority provide critical support for small businesses in the Commonwealth.

July 23, 2008
The Small Business Advisory Board expressed its desire to ensure that small businesses continue to have an advocate within state government, a function that DBA currently performs.

In addition, the Board mentioned that the distinct missions of DBA, DMBE, and VEDP should be kept intact in order to ensure the widest possible delivery and reach of business and economic development services.

The Board presented the following resolution and letter to the Secretary of Commerce and Trade during the meeting:

Resolved that the Virginia Small Business Advisory Board recommends to the Secretary of Commerce and Trade that the Department of Business Assistance, the Department of Minority Business Enterprise and the Virginia Economic Development Partnership be maintained as three separate agencies and that their missions be further differentiated.

Resolved further that the Virginia Small Business Advisory Board recommends that the task force convened by the Secretary of Commerce and Trade focus on developing recommendations that will strengthen each of the three agencies, further align their programs and activities with their respective missions, and identify resources needed to accomplish their missions.

Resolved finally that this resolution be conveyed to the Secretary of Commerce and Trade and the members of the task force, and to the appropriate leaders in the General Assembly by letter from the chair of the Virginia Small Business Advisory Board.

Dear Mr. Secretary:

I am writing as chair of the Virginia Small Business Advisory Board (VABAB) to forward the enclosed resolution of the Board adopted at a special meeting on Monday, July 23rd. The resolution reflects the Board's recommendation to you, and to the task force you are chairing which is looking at the alignment of agencies in your secretariat, that the Department of Business Assistance (DBA), the Department of Minority Business Enterprise (DMBE) and the Virginia Economic Development Partnership (VEDP) be maintained as three separate agencies and that their missions be further

differentiated and strengthened.

The VSBAB members believe that Virginia's small businesses need a stronger advocate and presence in the executive branch and that the DBA should be the lead agency in state government advocating for and serving new and existing Virginia businesses, with particular emphasis on the 98% of Virginia businesses defined as small businesses (i.e., those with 250 or fewer employees or less than $10,000,000 in annual revenues).

Just as the federal government needs the Small Business Administration and its Office of Advocacy to ensure that someone is arguing for the interests of small businesses when policies are being debated and budgets structured, so, too, does Virginia need the DBA to serve as the voice of Virginia small businesses in the administration and in the development of public policy.

Since the first year of the Allen administration (1994), each incoming governor has had to write an economic development strategy in the first year of his term. Over the years since this requirement was implemented, under the leadership of VDEP (and its predecessor agency) the economic development strategy has been crafted almost exclusively from the perspective of the large corporations that make up less than 5% of all Virginia businesses. "Small business" does appear in the current administration's strategy, but exclusively in the context of including the SWAM program (a program that speaks only to ending discrimination in state contracting) as a part of the Commonwealth's economic development strategy.

During the mid-90's when substantial cuts in state spending were required to balance the budget, the lack of a small business advocate in the administration was a factor in the decision to cut from the DBA budget the state matching funds (more than $ 1 million) used to generate federal funds to operate the state's small business development centers. Cutting the money from the state budget, forced the small business development center program out of the DBA, and jeopardized its very existence in the Commonwealth. The program is now operated out of George Mason University, leaving the small business development centers "outside" the policy direction of the administration.

Subsequent cuts (while multiple hundreds of millions have been spent on incentives for larger, mostly out of state, businesses) have chopped the Department's total budget to about $13 million resulting in the loss of the Department's research arm and limiting severely the general funds available for programs targeted at Virginia's existing small businesses. Currently, for example, approximately 85% of the $8,466,790 allocated to the Virginia Jobs Investment Program for FY2009 and 2010 (the overwhelming portion of the DBA budget) is expected to be transfer payments for economic development projects negotiated by VEDP. The limited Administrative Services budget for the agency also includes $141,235 which will be transferred to the Virginia-Israel Advisory Board each year.

The small business loan programs operated by the Virginia Small Business Financing Authority have received nominal funding beyond their original financing since their inception, operating as a revolving program without the ability to expand beyond the original capitalization. This is an issue repeatedly identified by the small business community which is starving for access to capital. The funding level for the Virginia Small Business Financing Authority for FY2009 and 2010 includes mostly non-general funds. The general fund figure is $179,334.

We believe that the Department of Business Assistance's independent mission should be strengthened and funded adequately. The DBA should be staffed and funded sufficiently to allow it to:

- play a more visible role in developing the economic development strategy for the Commonwealth, highlighting programs and services that would propel the growth of existing Virginia businesses and, particularly, small businesses;
- be charged with coordinating services to new and emerging businesses (largely through collaboration with the SBA, the Small Business Development Centers, Women Business Centers, business incubators, and business and trade associations) and with delivering services included in incentive plans negotiated by the Virginia Economic Development Partnership to attract out of state businesses;
- serve as the advocate for small business before the legislature and in the administration;
- offer lending programs and other services identified as essential to facilitate the growth of Virginia businesses and eliminate barriers to participation in state and local contracting programs identified by the Department of Minority Business Enterprise, including mentor/protégée programs.

The mission of DBA should clearly be differentiated from that of the Department of Minority Business Enterprise which is and should be confirmed as the agency in charge of the Commonwealth's supplier diversity program, identifying disparities between utilization and availability of small, women and minority owned businesses and solutions to any disparities identified, and seeking to assure small, women and minority owned businesses receive their fair share of the public contract dollars. DMBE should recommend to DBA programs and services that will strengthen the capacity of small, women and minority owned businesses to obtain and fulfill state contracts, but the implementation of the recommendations and the provision of such services should be DBA's responsibility not DMBE's.

DBA should also be clearly differentiated from the Virginia Economic Development Partnership which is and should continue to be the agency in state government charged with developing and refining the state's economic development strategy; marketing Virginia to out of state businesses; constructing and negotiating incentives to attract such businesses to Virginia; and identifying opportunities and strategies to expand the growth of specific employer businesses in Virginia. VEDP should engage DBA as a collaborator in fulfilling incentives offered to new and expanding businesses but responsibility for providing programs and services to these businesses should remain with DBA.

There might be a time in the future when VEDP and DBA should merge, but that time is not now when we need the true economic engine of Virginia and creator of most new jobs, its small business community, to get more support and attention from the state, not less.

Very truly yours,

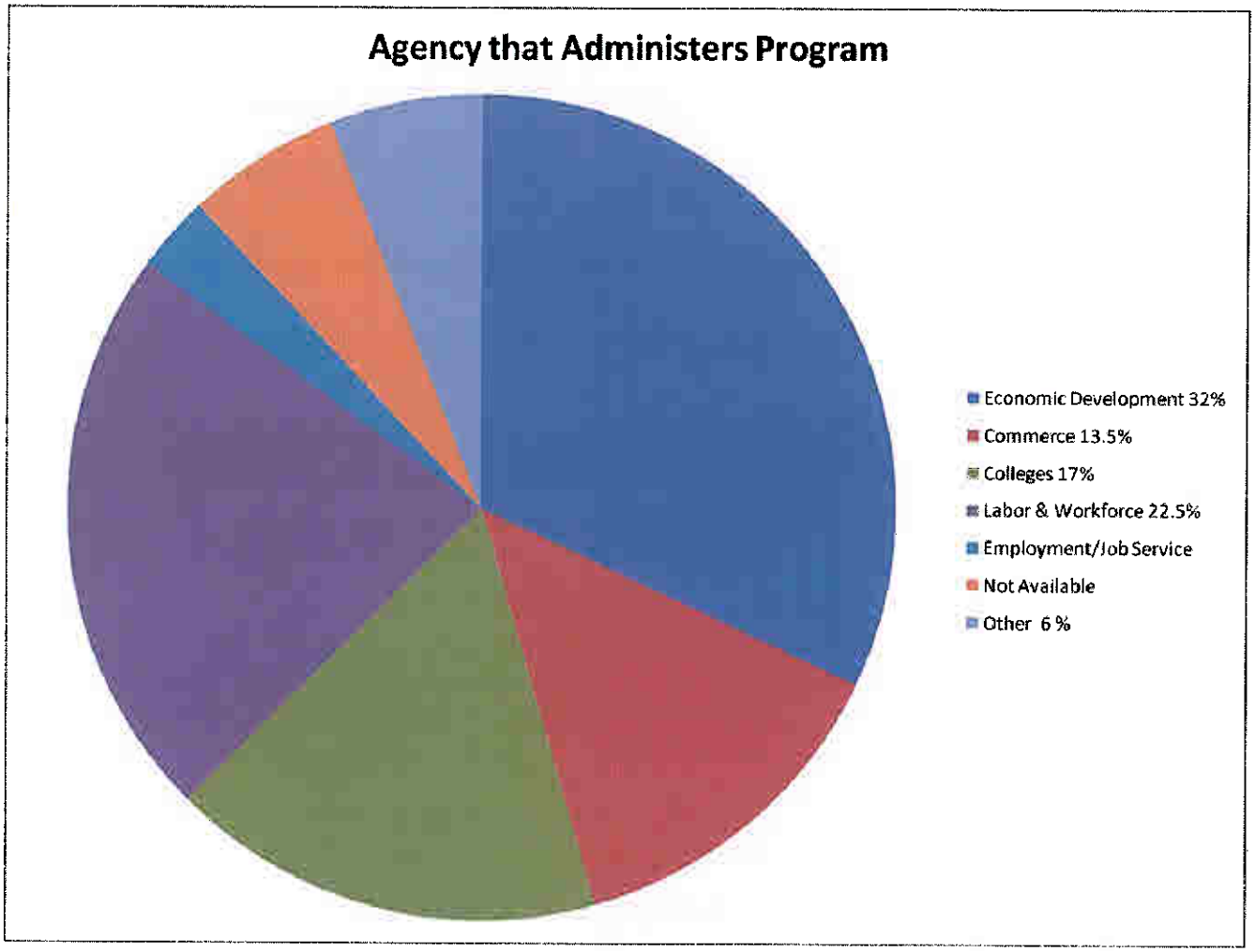
Robert Nealon

Appendix E – 2006 Workforce Services Budgets

Alabama	$7,024,000.00	Mississippi	$27,853,750
Alaska	$6,400,000	Missouri	$31,300,000
Arizona	$11,033,300	Montana	$1,300,000
Arkansas	$2,385,000	Nebraska	$8,900,000
California	$52,182,000	Nevada	$500,000
Colorado	$2,700,000	New Hampshire	$0
Connecticut	$0	New Jersey	$28,700,000
Delaware	$1,200,000	New Mexico	$10,000,000
Florida	$5,000,000	New York	$3,500,000
Georgia	$22,350,753	North Carolina	$8,343,277
Hawaii	$1,200,000	North Dakota	$1,805,781
Idaho	$3,900,000	Ohio	$17,200,000
Illinois	$17,500,000	Oklahoma	$5,200,000
Indiana	$15,000,000	Oregon	$0
Iowa	$62,295,287	Pennsylvania	$30,000,000
Kansas	$17,453,391	Rhode Island	$8,350,000
Kentucky	$5,500,000	South Carolina	$5,000,000
Louisiana	$44,137,783	South Dakota	$1,750,000
Maine	$2,579,000	Tennessee	$17,000,000
Maryland	$3,811,718	Texas	$20,000,000
Massachusetts	$21,000,000	Utah	$3,108,100
Michigan	$9,798,000	Vermont	$1,800,000
Minnesota	$6,753,000	Virginia	$8,200,000

(Source – 2008 Survey of State Business Development Programs (Conducted by Steve Sparks, Arkansas Economic Development Commission)

Appendix E. cont. 2006 State Economic Development Services – Administrative Chart



(Source – 2008 Survey of State Business Development Programs (Conducted by Steve Sparks, Arkansas Economic Development Commission)

Appendix E. cont. – State Workforce Services Budgets - Source of Money

Alabama – General Funds and Bonds
Alaska – UI off-set tax
Arizona – UI off-set tax
Arkansas – General Fund
California – UI off-set tax
Colorado – General Fund
Connecticut - ?
Delaware – UI off-set tax
Florida – General Revenue
Georgia – General Fund and Tax Credit
Hawaii – UI off-set tax
Idaho – UI off-set tax
Illinois – General Revenue
Indiana – UI off-set tax
Iowa – Bonds
Kansas – Lottery Funds, Bonds
Kentucky – General Fund
Louisiana – UI off-set tax and General Fund
Maine – General Fund
Maryland – General Fund
Massachusetts – UI off-set tax
Michigan – General Fund
Minnesota – General Fund
Mississippi – UI off-set tax
Missouri – General Revenue and Bonds
Montana – General Fund
Nebraska – General Fund and UI Interest
Nevada – General Fund
New Hampshire - ?
New Jersey – UI off-set tax
New Mexico – General Fund
New York – General Fund
North Carolina – General Fund
North Dakota – General Funds and Bonds
Ohio – General Revenue and Unclaimed Funds
Oklahoma – General Fund
Oregon - ?
Pennsylvania – General Fund
Rhode Island – UI off-set tax and General Fund Tax Credit
South Carolina – General Fund
South Dakota – General Fund and UI off-set tax
Tennessee – General Fund and UI interest
Texas – General Fund
Utah – General Fund
Vermont – General Fund
Virginia – General Fund
Washington – General Fund
West Virginia – General Fund
Wisconsin – General Revenue
Wyoming – General Fund and UI interest

(Source – 2008 Survey of State Business Development Programs (Conducted by Steve Sparks, Arkansas Economic Development Commission)

Appendix F – Statement from the Virginia Economic Developers Association regarding the realignment of the Department of Business Assistance

VEDA Policy Statement
Realignment of the Virginia Department of Business Assistance

Since its creation in 1996, the Virginia Department of Business Assistance (VDBA) has sought to be the voice of the existing business community, including small businesses, to help these vital parts of our economy grow and prosper. Often working in cooperation with local governments and the Virginia Economic Development Partnership (VEDP), VDBA has contributed significantly to Virginia's reputation as a great place to do business. Unfortunately, the agency, in both good financial times and bad, has rarely been given the resources it needs to effectively deliver its full range of services. As the size of the state budget has more than doubled, VDBA has lost both program funding and overall Agency funding.

While the VDBA continues to play an important role in promoting economic development, realignment would result in more efficient and effective service to existing businesses, as well as business attraction and expansion. It would also serve to consolidate the outreach towards all businesses in the Commonwealth and enhance our ability to positively impact the growth of all employers regardless of size and geographic location.

Lastly, we recommend that the Agency, and its entire existing budget and personnel, with the exception of duplicative administrative functions, be transferred to the Virginia Economic Development Partnership. Significantly, the consolidation of the existing budgets will enhance and expand the economic vitality of the Commonwealth of Virginia.

Approved by the Virginia Economic Developers Association's Board of Directors at a scheduled meeting August 1, 2008.

Appendix G – Letter from Secretary of Administration to Secretary Gottschalk, dated August 7, 2008

COMMONWEALTH of VIRGINIA

Office of the Governor

Viola O. Baskerville
Secretary of Administration

August 7, 2008

The Honorable Patrick Gottschalk
Secretary of Commerce and Trade
1111 E. Broad Street, 4th Floor
Richmond, VA 23219

In regard to your 11/1/08 report to Money Committees on the Department of Business Assistance

Dear Pat:

Since May 2008 when you convened a "blue ribbon" study panel to help prepare this report, DMBE and I have been privileged to participate. The panel suggested eight approaches of which I understand SOCT culled three for final consideration. On August 19th, the panel meets again in its journey. My purpose in sending you this is to share how DMBE might help inasmuch as the legislative charge to SOCT is to prepare a plan of agency consolidation that may include DMBE receiving some of what DBA does now. Clearly legislation is contemplated.

It is my understanding that DMBE and DBA leadership have met from time-to-time before and since May '08 to discuss cooperation, elimination of duplicate efforts and symbiosis. From those meetings it is clear to DMBE that DBA either would like to shed or has already in effect shed some of the functions it used to do. DMBE is prepared to accept as complementary to what it does now within its statutory charge the following DBA programs and related support:

- Business Services Program
- Procurement Assistance Program
- State Technical Assistance Resource Support

I understand that the current DBA Director supports these reassignments.

Since no matter the final recommendations you author, it is likely that 2009 legislation will become essential, I hope you will support a housekeeping item focused solely on the

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maturing of DMBE since its inception. Its current title fit its mission at one time, but in light of that altered mission as a result of statutory changes, I want to bring its name more in line with those statutory accountabilities. Moreover, it becomes increasingly important in a truth-in-labeling sense that the agency's name reflects its current broader charge. Like agencies in other states already are accurately described vis-à-vis their work.

For example, Florida's comparable agency is called Office of Supplier Diversity; Connecticut has a Supplier Diversity Program and Missouri has an Office of Supplier and Workforce Diversity. In addition both North Carolina and Texas refer to their Offices as the Office for Historically Underutilized Businesses, which is the title consistent with how the businesses were described in the 2004 MGT Procurement Disparity Study of the Commonwealth of Virginia. Corporate America as well refers to its programs of increasing the utilization of diverse businesses as its supplier diversity programs. We can provide additional information should you need it. These facts cause me to ask that in the statutory changes bound to be forwarded as a result of your report, your panel asks to alter the Code to call DMBE the Department of Supplier Diversity.

I hope this is helpful in your drafting ahead of the fast approaching 11/1/08 date and the next meeting of the study group. I would appreciate seeing a draft of your report in plenty of time for me to consider its impact on DMBE. I may be able to offer helpful suggestions.

Very truly yours,

Viola O. Baskerville

Cc: Kim Y. Farrar, Deputy Secretary of Administration
Richard B. Zorn, Deputy Secretary of Administration
Samuel Hayes, III, P.E., Director, Department of Minority Business Enterprise

Appendix H – Letter from Director of Department of Business Assistance to Secretary Gottschalk, dated August 22, 2008

August 22, 2008

The Honorable Patrick O. Gottschalk

Thank you for your offer to allow me, as Agency Director, to candidly address the future of the Virginia Department of Business Assistance (VDBA) in light of the VEDP/VDBA Study Committee. I understand that this letter will become a part of the Committee's final report.

Since 1996 the Virginia Department of Business Assistance has served the Commonwealth of Virginia as an economic development service provider to the businesses of the Commonwealth, administering statutory programs and creating innovative approaches to supporting business creation and growth. Throughout the 12 year history of the agency, numerous attempts have been made to dismantle it. These efforts have never been based on real or perceived shortcomings of VDBA—the agency has a sterling reputation for client service and responsiveness.

While previous attempts to "abolish" VDBA could be attributed to misunderstandings of the agency's role in the spectrum of economic development programs or a misguided belief that its services were duplicative, the approach that the Study Committee has taken toward VDBA is troubling. What started as a mere agency merger study has descended into an unseemly exercise in "cherry picking" VDBA's resources without regard to client impacts, efficiency and effectiveness, or an overall strategic direction for economic development in the Commonwealth.

As Agency Director, I do not support the moving of the Virginia Jobs Investment Program (VJIP) or any VDBA function to the VEDP. VJIP currently provides exemplary service to the VEDP from its present location while also adding synergy to a variety of VDBA programs. Housing VJIP at the VEDP for convenience is not an adequate justification for razing VDBA. There are other incentive programs analogous to VJIP, e.g., the Tobacco Commission. There is no study of the potential efficacy of bringing them to the VEDP.

I will put the staff of VDBA up against the best of the best for professionalism, dedication, responsiveness, and creativity. They passionately support Virginia's business and provide a human face to Virginia's number one state for business ranking. I cannot in good conscience support a recommendation that essentially eliminates VDBA and fails to address the impact on a large segment of its clients.

The old saying, "If it ain't broke, don't fix it" was never more apt. The Study Committee should recommend the "as is" case and leave VDBA intact.

Lynda Sharp Anderson

Appendix I – Memo from DMBE on PACE Program Funding, dated September 8, 2008

Report to the Secretary of Commerce & Trade's Department of Business Assistance Consolidation Study Group on the Capital Access Fund for Disadvantaged Business (aka the Providing Access to Capital for Entrepreneurs or PACE Program)

Prepared by the
Virginia Department of Minority Business Enterprise and the
Virginia Small Business Financing Authority
September 8, 2008

I. Background

The Virginia Department of Minority Business Enterprise ("DMBE") was established under § 2.2-1400 et seq. of the Code of Virginia to coordinate the establishment, preservation, and strengthening of Small, Women- and Minority-owned Business Enterprises ("SWaMs"), as well as the certification of such business concerns in the Commonwealth of Virginia. As part of this charge, was charged with responsibilities of managing the Capital Access Fund for Disadvantaged Business (hereinafter, the "Fund") also known as the *Providing Access to Capital for Entrepreneurs* or *PACE Program*, pursuant to § 2.2-2311 of the Code of Virginia.

The Fund was created by in 1999 and is a permanent non-reverting fund situated in the state treasury. The PACE Program provides credit enhancements to participating banks through a Capital Access Program or loan guaranties up to ninety percent (90%). The fund was initially capitalized with $309,569 from the DMBE. Currently, the PACE Program has two components: the Capital Access Program and the Loan Guarantee Program.

The Code of Virginia requires the Fund to be managed by the DMBE and administered by the Virginia Small Business Financing Authority ("VSBFA").[3] The two departments formally recorded the relationship in a Memorandum of Agreement dated November 2007. The responsibilities of the parties are as follows:

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[3] Code of Virginia § 2.2-2311 (B). There is created in the state treasury a permanent non reverting fund to be known as the Capital Access Fund for Disadvantaged Businesses (the Fund). The Fund shall be comprised of (i) moneys appropriated to the Fund by the General Assembly, (ii) all income from the investment of moneys held by the Fund, and (iii) any other moneys designated for deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to provide loan guarantees, loan loss reserves, and interest rate write downs. The Fund shall be managed by the Department of Minority Business Enterprise (the Department) and administered by the Virginia Small Business Financing Authority (the Authority).

The VSBFA will:

(1) Administer the funds of the Capital Access Fund for Disadvantaged Businesses specified herein. Such administration includes:

a. Providing loan guarantees, establishing loan loss reserve accounts, making payments for interest rate write downs, or otherwise disbursing moneys from the Fund or incurring contingent liabilities against the Fund, all as requested and approved by DMBE and in compliance with the provision of § 2.2-2311 of the Code of Virginia.

b. Preparing and maintaining Fund Transaction documents and appropriate customer files.

c. Keeping records of all Fund transactions and maintaining such reports as will allow VSBFA to monitor Fund balances, commitments, and contingent liabilities.

d. Servicing the Fund's portfolio of transactions, including but not limited to collecting fees, and making disbursements in connection with any defaulted loans.

(2) VSBFA will collect and maintain such data and reports for DMBE as will enable DMBE to track and report on the performance and administration of the Fund, including programmatic activity and Fund balances, and to monitor delinquencies and defaults.

(3) VSBFA will maintain and retain all records and other documents related to this MOA for a period of three (3) years from the completion of the final audit of the Fund, except in cases where unresolved audit questions require retention for a longer period as determined by DMBE, the State Auditor of Public Accounts, or other state auditing authorities. VSBFA shall make such records and documents available for inspection and audit at any time to authorized representatives of DMBE, the State Auditor of Public Accounts, or other government authorized representatives. VSBFA shall provide to DMBE a copy of any audit report pertaining to the Fund.

The DMBE will:

(1) Through its Director, DMBE allocate or otherwise transfer to the Fund the amounts authorized, appropriated by the General Assembly, or otherwise remaining in the Fund, as they may from time to time be authorized and appropriated, and allocate or otherwise transfer to the Fund such other funds, grants, gifts, or resources intended to be used by the Fund, upon receipt and in a timely manner.

(2) Cause to be paid to VSBFA by June 30th of each fiscal year, an annual fee for administering the Fund. The fee, payable from the Fund, shall be in the amount of $5,000 and may be adjusted in any subsequent fiscal year, in light of Fund activity and as mutually agreed upon by DMBE and VSBFA.

(3) Reimburse from the Fund any attorney fees or other expenses incurred VSBFA in connection with administering the Fund. VSBFA shall obtain prior approval from DMBE for any foreseeable or anticipated expenses.

(4) Provide to VSBFA such appropriate certifications, commitment letters, or other approvals as will authorize VSBFA to issue benefits from the Fund.

(5) Provide DBA and VSBFA with all relevant information regarding changes in law, policy, rules and regulations affecting the Fund.

(6) Designate a Fund Manager as liaison for DBA and VSBFA to coordinate all matters relating to the performance of the Memorandum of Agreement.

II. Financial Reporting

All figures provided below are as of July 31, 2008:

• Initial funding for the Fund 1999 (FY 2001)	$309,569
• Less transfer to General Fund due to budget cuts - FY 2002	($100,000)
• Plus interest & fees	$86,792
• Less Non-General Fund servicing charges from DOA	($3,596)
• Less Guaranty payment to James Monroe Bank FY 2005	($44,592)
• Less PACE Capital Access Program ("CAP") match to banks	($119,597)
• Plus CAP claw back due to bank withdrawal	$12,866
• Total Fund cash-on-hand as of July 31, 2008	$141,442
• Less Outstanding Guaranties	($122,380)
• **Available Cash on Hand**	**$19,062**

Since its actual creation in November 2000, the PACE program authorized the transaction of a total of 36 loans (mostly through the CAP portion of the program), with a majority of the loans made since 2006. Total amount of loans made by the banks through the PACE program have totaled $2,970,648 and has achieved a leveraging of $14 in private equity and debt for every $1.00 of state funds invested.

A total of 315 jobs have been created or retained as a result of the loans made through the PACE Program; with 14 of the loans (or 39%) attributed to new or startup companies. Since 2000, there has been 1 charge off for $44,592 for a loan guaranty made to James Monroe Bank that was made prior to VSBFA's involvement in the underwriting and marketing of the PACE Program.

The CAP has historically been much stronger and has experienced less loss than the Loan Guaranty Program.

III. Recommendation

The following DMBE and VSBFA recommendation for funding of the PACE Program is based on historical usage data as an indication of demand. In sum, if funding of $150,000 in fiscal budget years 2009 and 2010 were secured and injected into the Program, this amount at its most minimum level would adequately "carry" the program for an additional 2 years (estimated) from the respective fiscal year. Table 1.

Table 1. Recommended Funding Injection for PACE Program

Fiscal Year 2009	*Fiscal Year 2010*	*Total*
$150,000	$150,000	$300,000
Program viability until 2011	Program viability until 2012	