

**REPORT FROM
THE COMMISSION ON STATE GOVERNMENTAL MANAGEMENT
ON
PRIORITY RECOMMENDATIONS FOR 1978
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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PRIORITY RECOMMENDATIONS FOR 1978

**A REPORT OF THE
COMMISSION ON STATE GOVERNMENTAL MANAGEMENT
COMMONWEALTH OF VIRGINIA**

DECEMBER, 1977

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INTRODUCTION AND SUMMARY

A concern with the unprecedented growth of state government prompted the 1973 General Assembly to create the Commission on State Governmental Management. In the ten years prior to the 1973 Session, employment in state government increased 83 percent, from 40,571 to 74,269 and state expenditures grew 300 percent, from approximately \$496 million to over \$2.004 billion; while Virginia's population increased only 13 percent, from 4.276 million to 4.844 million. The Commission's major responsibility, as defined by the General Assembly, was to propose ways of:

bringing about greater efficiency in state government by the reduction of the more than one hundred agencies to a reasonable and practicable number, the elimination of duplication and overlap, the establishment of clearer lines of authority, and undivided responsibility for particular functions of state government.

Since its establishment, the Commission has sought ways to make state government more efficient, effective and accountable. The Commission proposals have been directed toward:

- Making state government more productive, effective, and efficient while also increasing its accountability and responsiveness.
- Improving the quality of state services by clarifying lines of responsibility and authority.
- Enhancing state government's adaptability to change.
- Improving the state's planning, policy analysis and program development capability.
- Fostering a more positive management attitude with greater emphasis on results and program accomplishments.

Throughout its study, the Commission was keenly aware that previous reorganization study groups had suggested changes with only partial and often short-term success. Over 50 years ago, Governor Harry F. Byrd, Sr. proposed a reorganization of state government. The principal elements of the reorganization included the implementation of a short ballot providing for the popular election of only the Governor, Lieutenant Governor and Attorney General; the appointment of all administrative heads by the Governor; and the grouping of all agencies under 10 major departments. Of these recommendations, only the short ballot proposal was fully implemented. The Governor's Management Study in 1970 also considered state government operations but, because of its short time in existence, was unable to fully address the wide range of organization and management questions that were raised.

When the Commission was created, it began seeking proposals which would eliminate the need for reorganization every few years. Government works more effectively when changes in its organization and management are made as they are needed, rather than through a massive reorganization effort every quarter of a century.

There will be many changes in the future problems facing Virginia, in the demands made on state government, in the personnel occupying state offices and in the political climate in which Virginia functions. With these realities in mind, the Commission sought, and is still seeking, to promote the effective and responsible government Virginians both want and deserve. The product of the Commission's work will not only allow for these future changes, but also allow the state to anticipate them, and avoid crises, disruption and uncontrolled growth.

Many of the Commission's recommendations have already been adopted by the 1975, 1976 and 1977 Sessions of the Virginia General Assembly.

In 1975, the General Assembly enacted legislation sponsored by the Commission to strengthen the state's budget and accounting processes. A major aspect of the legislation requires the Governor to formulate the budget on a programmatic basis, emphasizing goals and objectives to be achieved by the programs of state government.

At the 1976 Session, several Commission proposals were approved by the General Assembly. Legislation was passed to strengthen the Governor's role in the coordination of federal contacts, in budget formulation and in his relationship with his Secretaries and the Attorney General. Recommendations were also approved which provided for the reorganization of administration and finance agencies, including the integration of planning and budget processes; the establishment of a Secretary of Public Safety; and the revision of the state personnel process with particular attention given to making the process more effective.

The Commission's legislative program approved during the 1977 Session included several bills giving the Governor a more substantial role in the affairs of state government. Specifically, the legislation gave the Governor the authority:

- to submit with his proposed budget a statement of proposed policies in six major areas of state government,
- to submit reorganization plans to the General Assembly for approval,
- to appoint all heads of state agencies, boards and commissions subject to confirmation by the General Assembly, and to remove any member of a board and commission for a specified reason.

The 1977 General Assembly also approved Commission legislation establishing the Department of Commerce, the Department of General Services and the Department of Housing and Community Development. The creation of these Departments occurred through the consolidation of various agencies with similar functions. This approach provides sound management and offers potential savings to Virginia's taxpayers.

The Commission will conclude its study at the end of the 1978 Session of the General Assembly. During the past few months, the Commission has reevaluated earlier recommendations on which it had taken no final action. The Commission found that many of the earlier problems remain and that further changes are necessary in the organization and management of state government to solve these problems. This report contains the discussion of the changes proposed by the Commission. A summary of the 1978 Commission recommendations is listed below:

General Administration

- Retain boards and commissions and have them play a significant role in state government.
- Maintain the Public Telecommunications Council within the new Department of General Services for the present and request the Governor to initiate a study of the utilization of educational television in the Commonwealth.
- Request the Governor to prepare a program for the delegation of personnel authority.
- Separate management analysis and systems policy activities from computer services activities.
- Transfer the Art Commission to the new Department of General Services and change its name to the Art and Architectural Review Council.
- Establish a consistent format for identifying state agencies and collegial bodies.

Agricultural and Economic Resources

- Divide the state's commerce and resource responsibilities between a Secretary of Agricultural and Economic Resources and a Secretary of Natural Resources.
- Consolidate the state's industrial development and travel service activities within a Department of Industrial Development and Tourism.
- Consolidate responsibility for the inspection and regulation of milk activities within the Department of Agriculture.
- Transfer activities of the Office of Consumer Affairs and other non-agricultural inspection activities of the Department of Agriculture and Commerce to the Department of Commerce.
- Assign responsibility for the supervision and administration of the Virginia Truck and Ornamentals Research Station to Virginia Polytechnic Institute & State University.

Education

- Consolidate the administrative activities of the state's educational finance authorities within a single agency.

Human Resources

- Reorganize the state's social and employment services with responsibility for their administration placed within a Department of Social and Employment Services.
- Reorganize the state's welfare and unemployment benefit payment programs with responsibility for their administration placed in a Department of Economic Security.
- Broaden the mandate of the Department of Vocational Rehabilitation and rename the agency the Department of Rehabilitative Services.

Natural Resources

- Divide the state's commerce and resource responsibilities between a Secretary of Agricultural and Economic Resources and a Secretary of Natural Resources.
- Expand the State Water Control Board's recent efforts in water resource management and assign all responsibility for the regulation of sewerage systems and sewage treatment plants to the Board.
- Assign responsibility for the Bureau of Solid Waste to the proposed Secretary of Natural Resources.
- Establish a Department of Recreation and Historic Preservation by consolidating the activities of the Commission on Outdoor Recreation, the Outdoors Foundation, the Historic Landmarks Commission and the Division of Parks.

Public Safety

- Transfer responsibility for the enforcement of the state's Alcoholic Beverage Control and Motor Carrier Laws to the Department of State Police.
- Consolidate the activities of the Capitol Police, the Criminal Justice Services Commission and the Division of Justice and Crime Prevention within a Department of Justice Planning and Safety Services.
- Request the Governor to evaluate the programs of the Rehabilitative School Authority and its relationship to the Department of Corrections, and report his findings, conclusions and recommendations to the General Assembly.

Transportation

- Establish a Policy and Evaluation Staff reporting to the Secretary of Transportation; make the Secretary responsible for developing balanced transportation system plans; and make the powers of agency heads reporting to the Secretary consistent.

- Transfer responsibility for all aviation matters, except economic regulation, from the State Corporation Commission to the Secretary of Transportation, and rename the Division of Aeronautics, the Department of Aviation.
- Transfer responsibility for the Virginia Port Authority from the Secretary of Commerce and Resources to the Secretary of Transportation and reestablish the Authority as the Department of Ports and Waterways.
- Transfer responsibility for mass transit programs from the Department of Highways and Transportation to a new Department of Public Transportation.
- Consolidate the state's transportation safety activities within a single agency responsible to the Secretary of Transportation.

State Corporation Commission

- Continue the State Corporation Commission in its constitutional role of setting rates, issuing certificates of convenience and necessity, regulating the services of public service companies, and administering corporation laws.
- Transfer executive responsibilities for public utility regulation to a Department of Public Utilities responsible to the Secretary of Agricultural and Economic Resources.
- Transfer executive responsibilities for insurance regulation to a Department of Insurance responsible to the Secretary of Agricultural and Economic Resources.
- Transfer executive responsibilities for banking regulation to a Department of Banking responsible to the Secretary of Agricultural and Economic Resources.
- Transfer executive responsibilities for securities regulation to a Department of Securities and Retail Franchising responsible to the Secretary of Agricultural and Economic Resources.
- Transfer the Public Service Taxation activities of the State Corporation Commission to the Department of Taxation.
- Consolidate the investigatory activities of the State Corporation Commission's Enforcement Division and the activities of the Motor Transportation Division, Commerce Counsel Division, and Motor Carrier Taxation Division within the Division of Motor Vehicles and rename the expanded agency the Department of Transportation Regulation.
- Make the Attorney General responsible for representing only the public interest before the State Corporation Commission and other bodies.

GENERAL ADMINISTRATION

1. Retain boards and commissions and have them play a significant role in state government.

The Commission's position has always been that boards and commissions should retain their authority to interpret policy of the General Assembly through the adoption of rules, regulations, standards and other quasi-legislative actions. These actions, the Commission believes, are best left to a panel of citizens rather than a single state official.

While all boards and commissions do not have the same responsibilities, they should at minimum serve as a public watchdog; provide a means of citizen access; publicize, educate and work for public support; and advise the Governor, the appropriate Secretary, as well as the agency head on any matter affecting the agency. They should also retain a degree of independence from their respective agencies to allow for critical review of agency operations. This can not be the case where boards and commissions serve as governing bodies of their agencies. They are not independent when they must be formally responsible for all aspects of their agency's operations.

Boards and commissions, however, should not exercise any responsibility or have any authority to direct or supervise the management of state agencies. This is properly the responsibility of the Governor and the heads of the respective agencies. Part-time boards and commissions by their very nature cannot provide the continuing supervision the Governor can.

Citizen boards and commissions should also keep the Governor, the appropriate Secretary and the agency head advised on policy matters. Present statutes explicitly require certain boards (e.g., the Board of Agriculture and Commerce, the Board of Welfare and the Board of Corrections) to advise the Governor on matters relating to their agencies, in addition to carrying out their other responsibilities. All boards should have this role.

The Governor should receive the advice and counsel of citizen boards and commissions in the formulation of policy recommendations to the General Assembly. This should be the case, regardless of the extent of decision-making power vested in a particular board or commission.

2. Maintain the Public Telecommunications Council within the new Department of General Services for the present and request the Governor to initiate a study of the utilization of educational television in the Commonwealth.

The responsibility for public telecommunications was assigned to the new Department of General Services by the 1977 General Assembly. The Public Telecommunications Council expressed some concern about this action.

The Public Telecommunication Council feels it should assume the role it played prior to 1977. The Council does not want to be responsible for owning, operating, or maintaining telecommunication facilities or services. Instead, the members see the Council as a policy-making body, with a particular role in educational television. Under their approach, operational responsibilities would be assigned to the Department of General Services with the Council remaining an independent agency reporting to the Secretary of Education.

The implementation of the Council's recommendations at the present time would frustrate the potential for wider and more integrated applications of telecommunications at the state level. It would also cost the state more money. Certain staff functions would have to be duplicated if the activities of the Council were split between two agencies. Further, there is some question as to the effectiveness of educational television as an instructional tool in Virginia and elsewhere. Before the state moves to create a separate independent educational council, an analysis of the state's role in educational television should be undertaken.

3. Request the Governor to prepare a program for the delegation of personnel authority.

At the 1977 Session, a study of personnel management was presented to the Governor and General Assembly in response to a Resolution sponsored by the Commission (HJR 64, 1976). While the study was directed to the central theme of the Resolution, no specific plan for the delegation of appropriate personnel authority to the various agencies of state government was presented. Reference was made to the delegation of authority in the Department of Highways and Transportation. However, this occurred in only two areas and only on a pilot project basis. To assure a more effective state personnel management system, appropriate delegation should be made on a broader basis.

To accomplish this delegation, the Commission recommends a program be developed by the Governor which identifies: (1) personnel functions which might appropriately be delegated to state agencies; (2) agencies to which such delegation should be made; and (3) financial and manpower requirements necessary to implement the programs.

4. Separate management analysis and systems policy activities from computer services activities.

The Commission questions whether a single agency should perform all functions now carried out by the Department of Management Analysis and Systems Development. Policy and management control, when paired with the responsibility for the provision of services, are often conflicting responsibilities.

In an earlier report, the Commission recommended management analysis and automated data processing (ADP) policy development and control be organizationally separated from ADP computer services. The result of this recommendation was the creation of the Department of Management Analysis and Systems Development. The administration decided not to implement the provision for separating the Computer Resources Center from the Department.

Changing circumstances have led to some modification of the previous proposal. Nevertheless, the central premise of the earlier recommendation that management analysis and ADP policy development and control be organizationally separated from ADP computer services remains valid.

The Commission's revised recommendation proposes the Department of Management Analysis and Systems Development be divided into two separate agencies--a Department of Management Analysis and System Policy and a Department of Computer Services, both reporting to the Secretary of Administration and Finance.

The Department of Management Analysis and System Policy would be responsible for the management analysis program, the promulgation of policy regarding automated data processing, the coordination of ADP planning, the review of ADP budgets for state agencies, and ADP systems evaluation and audit. Funding for the Department of Management Analysis and Systems Policy should be by direct appropriation from the General Assembly.

The Department of Computer Services would be responsible for all other functions of the Department of Management Analysis and Systems Development including: operation of data processing centers, and systems design, maintenance, and programming. The funding of the Department of Computer Services should be through the Working Capital Fund.

5. Transfer the Art Commission to the new Department of General Services and change its name to the Art and Architectural Review Council.

The Art Commission assists the Division of Engineering and Buildings in the review of all structures proposed to become a part of the state's Capital Outlay Program. The Commission's purpose is to assure compatibility between design and function in structures under review. Projects are transmitted to the Commission after they have been reviewed and approved by the staff of the Division. After review, the Commission forwards its recommendations on each project to the Governor for approval.

The Commission recommends the responsibilities of the Art Commission be brought within the structure of the Department of General Services. Its relationship should be the same as the other advisory commissions and councils now within the Department, rather than remaining an independent commission. Collegial bodies such as the Board of Purchase and Supply, the Consolidated Laboratories Advisory Council and the Telecommunications Council were brought within the structure of the agency because they were related to necessary support functions of state government. Since the Art Commission is technically not part of the Division of Engineering and Buildings, it was not considered in the overall concept when the Commission made its initial recommendation. This oversight should be corrected.

The name of the Commission should be changed to more closely reflect its responsibilities. Specifically, it should be called the Art and Architectural Review Council. The responsibilities of the Council should be the same as those presently exercised by the Art Commission.

6. Establish a consistent format for identifying state agencies and collegial bodies.

State agencies are known by a myriad of titles. They may be called departments, divisions, offices, commissions, councils, boards, authorities or institutions. Although their names may be different, their responsibilities are often similar. There appears to be little rhyme or reason why these distinctions exist.

The difference in terminology is confusing. Since agencies have the same names as their collegial bodies, it is difficult to determine whether a reference to a commission is to the agency itself or to its board. Agencies like the State Water Control Board, the Air Pollution Control Board, the Commission for the Visually Handicapped, and the Council of Higher Education are cases in point.

The Commission recommends a hierarchy be created establishing consistency in agency identification. This would eliminate the confusion which exists when reference is made to an agency. Specifically, the Commission recommends the following terminology be applied within the Executive Branch:

- (1) the term "Department" should mean an administrative unit of state government having operational responsibility,
- (2) the term "Division" should mean an administrative unit of state government having planning or advocacy responsibilities, generally acting in a staff relationship to a Secretary,
- (3) the term "Board" should mean a collegial body within a department,
- (4) the term "Commission" should mean a collegial body established for the purpose of conducting a study.

Every agency in the state government should be renamed in accordance with these guidelines. Further, any new agency created in the future should also follow these guidelines.

The Commission recommends the introduction of a Resolution expressing the sense of the General Assembly that the names of agencies and boards should be consistent. The Resolution would also state such changes should be made over a period of time.

AGRICULTURAL AND ECONOMIC RESOURCES

1. Divide the state's commerce and resource responsibilities between a Secretary of Agricultural and Economic Resources and a Secretary of Natural Resources.

Since the areas of agricultural and economic development and natural resources are of such importance to the continued well-being of the Commonwealth, the Commission recommends each be represented by a Secretary. The Secretary of Commerce and Resources cannot give the attention he should to matters of policy which arise because of the high number of agencies, programs and activities within his jurisdiction. His span of control is the largest, by far, of any single Secretary. He has neither the time, nor the expertise, to adequately deal with all matters assigned to him. Only through the division of the area of commerce and resources can adequate attention be given to the issues, problems and opportunities arising in those areas.

The Commission sees the responsibility of the Secretary of Agricultural and Economic Resources as promoting the economy of the state, job creation and community development. On the other hand, the responsibility of the Secretary of Natural Resources would be to develop policies which balance the development of the Commonwealth's natural resources with the need to conserve and preserve these resources.

While it is inevitable that conflicts will occur from time to time between development and conservation, such conflicts could be resolved between the Secretaries and their agencies without the Governor's involvement. There are some issues, however, where the nature of the problem will require the Governor to be called upon. Today, even with a single Secretary, the Governor is required to become involved because of the nature and significance of the problems which arise.

Under the Commission's proposal, the position of the Governor to make decisions in these matters would be enhanced. He would have two individuals advising him, each with their own information and expertise, providing him with the perspective needed. Under the existing situation, information is filtered through a single individual who may have his own position and who may not, through no fault of his own, provide the Governor with the best information in a timely fashion.

As the Commission indicated in an earlier report, even the Governor will undoubtedly have his own personal biases. These will be far different from those of the Secretaries who are not immediately answerable to the electorate. The effect of imposing a Secretary of Commerce and Resources between the Governor and various competing interests may be to submerge problems rather than deal effectively with them.

The Commission cannot emphasize strongly enough the importance of having an individual who can devote his full time to matters of agricultural and economic development. No longer would a Secretary have to determine how much time he should spend on development matters, as opposed to natural resources matters. The attention of the Secretary of Agricultural and Economic Resources would be devoted wholly to promoting and solving the problems of economic development. At the same time, the Commonwealth would have an individual who would be devoting his time to the management of the state's natural resources, to the wise use and development of such resources. The Commission does not see these individuals in an advocacy or adversary role but in a role supportive of the needs of the state as a whole.

Responsibility for energy matters would be assigned to the Secretary of Agricultural and Economic Resources. The importance of energy to the continued well-being of the Commonwealth cannot be overlooked. At present, the Virginia Energy Office, created by an executive order of the Governor, should continue in its present capacity. The role of the Office, however, is an evolving one. As the state's role in energy matters becomes greater, consideration should be given to upgrading the Office.

In dividing the Office of Secretary of Commerce and Resources, and in the creation of the two Secretarial positions, the Commission is also proposing the elimination of the Council on the Environment. Under this approach, no additional staff people or monies are necessary to support this recommendation. The staff of the Council on Environment, and the staff of the Secretary of Commerce and Resources currently involved in natural resources matters, would become the staff of the Secretary of Natural Resources. Appropriations which support these operations would also be transferred to the Secretary. Thus, this recommendation could be implemented with no additional costs to the Commonwealth.

2. Consolidate the state's industrial development and travel service activities within a Department of Industrial Development and Tourism.

The activities of the Virginia State Travel Service are designed to enhance the state's economy by bringing travelers into the state. The Travel Service is currently located within the Department of Conservation and Economic Development. Its present location, however, would be inappropriate with the assignment of the Department of Conservation and Economic Development to the proposed Secretary of Natural Resources. Since the Secretary of Agricultural and Economic Resources would be responsible for travel promotion as well as the state's other economic development programs, the Travel Service would be more logically located under this Secretary.

The promotion of industrial development and related economic activities is the major role of the Division of Industrial Development. The consolidation of this agency with the Virginia State Travel Service should broaden the perspective of Virginia's economic development efforts and bring about the development of a comprehensive economic policy for the Commonwealth. In a number of states, economic development activities have expanded beyond those traditional activities which can be clearly labeled as "industrial recruitment" or "travel promotion". A consolidated agency in Virginia, with a mandate to singly pursue economic development, would be able to explore the development of new activities and approaches.

The creation of a single agency should not cause the loss of identity to either of the individual elements. The two programs would be joined for their mutual benefit, rather than one being dominated by the other. Indeed, the visibility of the Travel Service should increase with its removal from the larger Department of Conservation and Economic Development.

Although the final decision on the allocation of appropriations for each activity would continue to be made by the General Assembly, the information used to make such a decision would be organized and presented differently. Questions of emphasis and level of effort would be addressed, providing the General Assembly with a greater base of knowledge upon which to make its decision.

For instance, although Virginia ranks in the middle among all states in the size of its industrial development budget, only a few states spend more than Virginia on travel promotion. However, the high travel promotion expenditures do not appear to have resulted in a particularly higher level of expenditures by travelers in Virginia. A combined Department should provide greater scrutiny of state expenditures for trade promotion, industrial development and travel promotion.

Approximately three-fourths of the states now have some form of consolidated organization incorporating industrial development and travel promotion. Recently combined agencies in several states report an increased ability to formulate comprehensive development programs for their states. In a period when competition for capital investment and the travel dollar is becoming greater and greater, and tax dollars are becoming increasingly scarce, the Commonwealth must develop a program to maximize its resources. The Commission believes the creation of a Department of Industrial Development and Tourism would provide Virginia the opportunity to develop a coordinated program with the capacity to adapt to changing circumstances.

3. Consolidate responsibility for the inspection and regulation of milk activities within the Department of Agriculture.

The Virginia dairy industry is a significant factor in the state's economy. Currently, three state agencies share the responsibility for regulating and inspecting the production, processing and sale of milk and milk products: the Department of Agriculture and Commerce, the Department of Health and the State Milk Commission. The goal of these agencies is to assure an adequate and healthy supply of milk to the consumer in Virginia.

The division of responsibility between these agencies creates much confusion as farmers, processors, producers and retailers must deal with all of these agencies at some point during the chain of supply.

Although these agencies have attempted to eliminate duplication of effort, the problem still exists. Enforcement and inspection activities, for example, are carried out by both the Department of Agriculture and Commerce and the Department of Health. The Milk Commission also has its own inspection effort.

There is a national trend toward the consolidation of all dairy activities within one agency. Such states as Kentucky, Indiana, Tennessee, Georgia, and Michigan have moved in this direction in recent years. Virginia is one of only four states (the others being Florida, Massachusetts, and Maryland) which still has more than one agency responsible for milk inspection and regulation. There has, however, been some movement toward consolidation in Virginia since 1970.

The Commission believes the idea of consolidating all milk activities within one agency is both feasible and practical. The inspection responsibility of the State Health Department should be transferred to the Department of Agriculture and Commerce. The experience and expertise of the Department of Agriculture and Commerce inspectors gained at the farm level should be adequate assurance that expansion of responsibilities into milk processing plants will not diminish the healthfulness of the milk available to the consumer. The Department would be able to carry out inspections through the whole chain of production, rather than stopping at the door of the processing plant.

Similarly, the consolidation of the Milk Commission staff with the Department of Agriculture and Commerce would eliminate the duplication of inspection efforts and provide potential savings at the administrative level.

The effect of this recommendation is not to abolish the Milk Commission. The Commission would remain as an independent regulatory body within the Department of Agriculture and Commerce responsible for the supply and price of milk.

Such an approach should enable Virginia and its dairy industry to keep abreast of the constant changes occurring in the business. By speaking through a single agency, the state should have a greater impact upon the adoption of federal laws, rules and regulations which have an impact upon the dairy industry in Virginia.

4. Transfer activities of the Office of Consumer Affairs and other non-agricultural inspection activities of the Department of Agriculture and Commerce to the Department of Commerce.

A prior Commission proposal suggested the creation of a Department of Commerce which was to have included the State Office of Consumer Affairs as one of its major components. The General Assembly, while creating the Department during its 1977 Session, retained the Office of Consumer Affairs within the Department of Agriculture and Commerce.

In its proposal, the Commission maintained the Administrator of Consumer Affairs and his staff were not appropriately located within an agency whose principal responsibility is the promotion and advocacy of agricultural industries. This is particularly true in view of the wide range of non-agricultural agencies, activities and industries the state's consumer affairs program deals with. The regulation of charitable organizations, an as yet unfunded activity assigned to the Office of Consumer Affairs by the General Assembly, is another program whose purpose is more consistent with the Department of Commerce activities rather than those of the Department of Agriculture.

The Commission believes the role of the Department of Commerce is one of representing the interests of both consumers and businessmen. The Department's efforts to assure fair business practices and quality services to the consumer benefit all concerned and the inclusion of the Office of Consumer Affairs would perfectly compliment these efforts.

The Department of Agriculture and Commerce should be the agency responsible for all agriculture-related activities. Those activities not relating to its primary function should be re-assigned. Specifically, the Commission recommends the regulation of motor fuels, charcoal, hazardous household substances, paints and weights and measures be transferred from the Department of Agriculture and Commerce to the new Department of Commerce. The regulation of charitable organizations should also be transferred. In addition, the responsibility for inspecting bedding and upholstery should be transferred from the Department of Health to the Department of Commerce. The Commission makes these recommendations after conducting an analysis of the inspection activities of both the Department of Health and the Department of Agriculture and Commerce.

Under this proposal, the Department of Commerce would be given clear responsibility for the regulation of business practices to the benefit of both consumers and businessmen. The agency would have a central inspection and investigatory force responsible for the regulation of occupations and professions, products and business practices. While the Department would represent the interest of consumers, it should not become a consumer advocacy agency. The Commission believes businessmen prosper when the consumer is satisfied and unscrupulous businessmen and professionals are eliminated from the marketplace.

The Commission also found problems concerning the inspection of food processing plants, food warehouses, grocery stores and supermarkets. Under the Virginia Food Act, the Department of Agriculture and Commerce is responsible for inspecting establishments where food is processed, stored, manufactured, prepared and sold, excluding restaurants. Local health sanitarians also inspect supermarkets and other facilities in their jurisdictions, particularly in the state's major metropolitan areas. To further complicate matters, the regulations enforced by the inspectors of the Departments are not necessarily identical.

To improve this situation, the Commission recommends the Governor, together with the agencies involved, initiate a study of these inspection activities which will lead to the elimination of this unnecessary duplication of effort. The Commission believes changes are necessary and, more importantly would increase the overall level of inspection services.

5. Assign responsibility for the supervision and administration of the Virginia Truck and Ornamentals Research Station to Virginia Polytechnic Institute & State University.

Virginia's agriculture research efforts are presently concentrated within one major institution, Virginia Polytechnic Institute & State University (VPI&SU). There remains only one experimental station not consolidated with VPI&SU, the Virginia Truck and Ornamentals Research Station (VT&ORS). The Commission recommends responsibility for the supervision of the Station be assigned to VPI&SU.

The Station's mission, within its limited area, is identical to the general mission of VPI&SU. VPI&SU's research program is expanding into areas which previously were the province of the Station. Research efforts of both institutions are similar, and, in many instances, the same. Three individuals employed at the Station are jointly appointed by the Extension and Research Divisions of VPI&SU. In addition, agricultural experiment stations, like VT&ORS, assigned to VPI&SU in the past have benefited from this association. Those served by the Station have also found the association beneficial.

There are those who argue that the Station has a better chance of receiving more attention, thus more money, if they remained independent. The Commission, however, does not believe the independence of an agency should be the basis for the amount of funds it receives; rather, the decision should be based upon relative merit. VPI&SU, as the state's major agricultural institution, should make recommendations on the allocation of agricultural research dollars to the Governor and General Assembly. If vegetable and ornamentals research at VT&ORS is of significance to the Commonwealth, the recommendations of VPI&SU should reflect this.

Past experience has shown the limited resources of the Station and its independence from any educational institution has restricted its ability to receive funds outside of those private donations from the Eastern Shore and Tidewater area. If the Station were part of VPI&SU, its position would be strengthened by increased federal funds for research, funds presently not available to it. Should Congress appropriate funds for the new farm bill, VPI&SU stands to gain an estimated \$6 million for agricultural research. It is questionable whether VT&ORS would be able to receive any of these funds offered on a competitive basis as VPI&SU would probably be the prime recipient. As a part of VPI&SU the station could receive a portion of these funds. In addition, other federal funds VPI&SU receives could be made available to the Station.

The similar efforts of VPI&SU and the Station also raise questions about their overlap of responsibility and their fragmented approach to research. Both conduct research in vegetables, potatoes, ornamentals, turf and soybeans. In fact, VPI&SU's budget in the area of ornamentals and vegetables is at least equal to that of the VT&ORS. If their appropriation for soybean research was included, it would far exceed VT&ORS's budget. While VT&ORS' work is oriented toward solving production problems, VPI&SU's program, while dealing with some production problems, is primarily directed toward research in marketing and processing. A consolidation should maximize the results of the two agencies and bring coordination to their activities.

The Commission also recommends the Board of Directors of the Station be retained and be involved in decisions effecting the Station. The growers should also continue to provide input and direction to the program.

EDUCATION

1. Consolidate the administrative activities of the state's educational finance authorities within a single agency.

Four state authorities have been established for the purpose of financing student aid and facilities for Virginia's schools and colleges. All four authorities are nominally responsible to the Secretary of Education.

The Public School Authority and the College Building Authority receive administrative support from the State Treasurer, while the other two authorities, the State Educational Assistance Authority and the Virginia Education Loan Authority, have their own staffs. In the near future, the latter pair of Authorities may require significantly larger staffs due to increased demands for their services.

While each Authority has its own specific activities, there are common support services required by each. As their programs expand, the need for additional support services can be minimized through the establishment of a single, consolidated administrative unit to serve them. The Commission recommends a department be created which would provide support in a fashion similar to the Department of Professional and Occupational Regulation. The agency should be named the Department of Educational Authorities. Under such a plan, each of the Authorities would retain its separate and distinct status, as well as being assigned the personnel necessary to support its own specific activities. The Department would be responsible for providing those necessary services required by the four Authorities.

Although the amount of administrative support provided by the Treasurer to the College Building Authority and the Educational Loan Authority is quite limited, the Commission believes an awkward situation is created by having an agency within the Office of Administration and Finance providing support to agencies within the Office of Education. With the creation of a consolidated staff to support the student aid authorities, it would seem advisable to transfer the administrative functions of the construction authorities as well. The timing of the transfer should be left to the discretion of the Governor.

Ordinarily, the view of the Department of Education and the State Council of Higher Education are solicited by the Public School Authority and the College Building Authority on projects under consideration. While this process has been established as a matter of policy by the Boards of both Authorities, the Commission believes this coordination is important enough to warrant a statutory requirement.

At present, no provision exists to require a periodic audit of these Authorities. Only the College Building Authority is required to report annually on its operational and financial status to the Governor. It is also the only Authority whose enabling legislation requires its books and accounts be subject to examination by a representative of the General Assembly. The other Authorities are not required to make any type of report.

The Commission recommends each Authority be required to submit a progress report to the Governor and General Assembly annually. The report should include the results of a mandatory annual financial audit of each Authority's accounts. In addition, the State Treasurer should be a member of both the Virginia Education Loan Authority and the State Education Assistance Authority, assuring the presence of at least one financial officer of the Commonwealth to provide policy input in Board deliberations. The Treasurer already sits as a member of both the College Building Authority and the Public School Authority.

HUMAN RESOURCES

1. Reorganize the state's social and employment services with responsibility for their administration placed in a Department of Social and Employment Services.

In 1975, the Commission proposed the creation of a Department of Social and Employment Services. The purpose of the Department was to supervise the delivery of services at the local level to families and individuals who, because of their circumstances, required assistance. Various state agencies, however, questioned the need for such an agency. Rather than pursue the proposal through legislation, the Commission sponsored a resolution, adopted at the 1977 Session of the General Assembly, requesting the Governor to study the matter.

The Secretary of Human Resources, on behalf of the Governor, created a Task Force to undertake the study. The need for a Department of Social and Employment Services was one of the main elements of the study.

The Task Force recommended, with the concurrence of the Secretary, no change be made in the existing structures of the Department of Welfare or the Virginia Employment Commission. They argued that the nature of the services of each agency were distinct from one another and the two agencies were already working cooperatively to improve the delivery of services for both agencies.

The Commission originally proposed this recommendation because it found the system providing services at the local level fragmented and lacking coordination. Although efforts have been made to improve the existing situation, the problems the Commission originally found still exist. The Commission believes its earlier recommendation provides a reasonable and practical approach to the administration and delivery of the state's social and employment services.

Welfare is a dynamic system with a high turnover of clients. Last year 22,500 cases were added to the 60,000 cases of the Department of Welfare and 25,000 cases were removed from the caseload. An analysis of these same cases indicated that 60 percent of those receiving welfare benefits have been on welfare less than two years. If the state were to put a major emphasis on getting its welfare clients jobs, it would be able to reduce its welfare rolls more quickly, while also making the client a more productive citizen.

The present system of fragmentation, with the Department of Welfare providing both social and employment services and the Virginia Employment Commission providing employment services, is not conducive to this effort. As an example, both agencies share in the administration of the Work Incentive Program. Approximately one-third of the welfare caseload participate in the Work Incentive Program, some 20,000 individuals. Yet, Virginia Employment Commission trained and placed only 4,100, or 20 percent of these Work Incentive clients last year.

The Virginia Employment Commission is also responsible for the state's CETA Program and provided assistance to some 23,000 individuals last year. The Virginia Employment Commission is moving more into the area of serving clients who tend to be disadvantaged and in need of both social and employment services. Its traditional orientation is also changing. Where it once viewed its clients as the state's employers, circumstances now dictate that a balance between employer and employee is in order.

The present Department of Welfare administers a variety of service and payment programs. The services, however, have not received the attention they deserve because of the magnitude of problems in the payment area. The only way services can be given proper attention is to separate them from the payment efforts. The organization of the Department with one division responsible for payments, and the other for services, makes this separation easy to implement. It also indicates the Department itself recognizes the approaches and procedures required for each program are distinctly different.

A similar situation exists at the Virginia Employment Commission. A concern for payments has also overshadowed the need for improvement in the delivery of employment services. The organization of the Commission is essentially the same as the Department of Welfare, with one division responsible for unemployment insurance benefit payments, and the other for employment services. Again, if the service programs are to receive the attention they need, they must be separated from the payments programs.

The proposed reorganization would allow local officials to better serve their clients. Local governments should be allowed to organize their own human resource agencies to best meet their needs. There should not be two, three or four different offices at the local level, whether state funded, federally funded or jointly funded, providing related services, yet remaining separate from one another. Programs could be planned more effectively and funds used more efficiently under this consolidated approach. Rules and regulations could be developed to reduce the administrative burdens, assure financial accountability, with conflicts being resolved by the Secretary of Human Resources when they arose.

The argument that it is difficult to treat a person as a whole person because federal funds are categorical in nature or that federal rules and regulations direct certain administrative procedures be established, is no reason to maintain the status quo. Rather, it is a situation which requires the state to organize itself to best utilize the available funds to meet the needs of its own citizens. Federal requirements are not so strict that waivers cannot be received for the state to achieve its objectives.

2. Reorganize the state's welfare and unemployment benefit payment programs with responsibility for their administration placed in a Department of Economic Security.

At the present time, financial assistance to individuals through various state programs, and the cost of administering this assistance, totals over \$250 million dollars. The Department of Welfare provides assistance through its Aid to Dependent Children program, food stamps, state-local hospitalization, and general relief programs, while the Virginia Employment Commission provides unemployment insurance benefits. Each program, in one form or another, has its own payment effort, quality control, fraud and eligibility determination activities.

As in the case of the Department of Social and Employment Services, the Task Force created by Secretary Wilkerson, with the concurrence of the Secretary, recommended no action be taken in this area. However, if the state is to strengthen its program in these areas, reorganization is necessary. The Commission recommends these efforts be consolidated within a single agency, a Department of Economic Security. The Department would include the unemployment insurance benefit activities of the Virginia Employment Commission and the benefit payments activities of the Department of Welfare.

This recommendation is based upon three premises: those eligible should receive the benefits to which they are entitled, whether they come from one or a variety of programs; errors in payments should be kept to an absolute minimum and be made only to those who are eligible; and the payment process should be as efficient and effective as possible.

The Commission discovered it is possible for individuals to receive benefits they are not entitled to, or receive more or less than they are entitled to, because of present agency practices. Errors made by Welfare and VEC employees contribute to this problem, as does the practice of fraud and abuse on the part of recipients. The state needs to strengthen its quality control and auditing practices to reduce errors to a minimum. Rather than having each agency administer its separate program, the Commission believes the state would be better served by the consolidation of these programs within a single agency. Eligibility determination should be strengthened under a consolidated approach, as should fraud and abuse activities. The Department of Welfare has only one individual dealing with fraud and abuse activities. The Virginia Employment Commission has six individuals with similar responsibilities. Recent experience shows the addition of two individuals to the fraud and abuse staff of the Virginia Employment Commission had significant results in increased determination of fraud and abuse.

The consolidation of the payment and the control efforts of the Virginia Employment Commission and the Department of Welfare would strengthen the administration and supervision of these programs at the state level. At the same time, a single local agency could administer these programs, along with the social and employment programs supervised by the proposed Department of Social and Employment Services. Arlington County is an example of how such an approach could work.

At this time, the Commission does not recommend the administration of the state's Medicaid Program be transferred to this proposed Department. Further study of this issue is necessary before any action is taken.

3. Broaden the mandate of the Department of Vocational Rehabilitation and rename the new agency the Department of Rehabilitative Services.

The report of Secretary Wilkerson's Task Force concurred with this Commission's findings, and those of a Virginia Advisory Legislative Council study, concerning the state's lack of an overall policy and program to meet the needs of its handicapped citizens. The Task Force recommended the Department of Vocational Rehabilitation be changed to the Department of Rehabilitative Services. The Commission concurs with this recommendation.

Many of the state's handicapped are presently served by the Department of Vocational Rehabilitation. The Department, however, because of eligibility requirements and financial restraints imposed upon it, has only been able to provide services to those who would benefit from vocational training programs. The Department, along with many others, recognizes there are those who do not qualify for these programs. They would benefit, however, from other rehabilitative services which would provide them with a sense of well-being and a hope for self-sufficiency.

The purpose of the Commission's recommendations is to design a system which would allow the state, over time and as funds became available, to develop a service system that would meet the needs of the state's handicapped, regardless of their ability to accept employment after completion of the program. The role of the Department of Rehabilitative Services would be to design such a system.

The Commission believes the state should begin to plan now to meet future needs. The Department should investigate additional sources of funds which might be used in the provision of such services. It should also begin to identify the services presently being provided to meet the needs of the handicapped. The approach now used by the Department, one which mobilizes a wide range of services to meet the needs of its clients, should slowly be expanded to meet the needs of the larger group of handicapped citizens who are not be eligible for present programs.

Although the Secretary's report proposes a period of seven years be allowed before full implementation of this new system, the Commission believes transition to this new concept should begin immediately. The name of the Department should be changed now, its role revised, and the search for additional funds begun as soon as possible.

The Commission recognizes the Department cannot immediately meet the expectations of all handicapped citizens. It will take time to implement the Department's new mission. The Commission also recognizes the state cannot bear the full burden of this new effort. State and local agencies, private institutions and organizations should all play an important role in this new approach. An expanded effort to coordinate the services now provided by these agencies and organization should be one of the Department's first efforts.

NATURAL RESOURCES

1. Divide the state's commerce and resource responsibilities between a Secretary of Agricultural and Economic Resources and a Secretary of Natural Resources.

This recommendation is identical to the one made earlier in the agriculture and economic resources section of this report. A full discussion of the proposal may be found on page 13.

2. Expand the State Water Control Board's recent efforts in water resource management and assign all responsibility for the regulation of sewerage systems and sewage treatment plants to the Board.

The state's emphasis on planning for its natural resources needs to be strengthened, particularly in the water resource area. The state has only recently begun to address the problem of water shortages. The present emphasis of the State Water Control Board in the area of water resource management should be expanded in response to the magnitude of this problem. The Board should address the full range of water resource issues facing state government on an on-going basis.

The Department of Health's Bureau of Sanitary Engineering is responsible for drinking water safety and the regulation of sewerage systems and sewage treatment plants. The Bureau's responsibility for the review of domestic waste water discharges and inspection of sewage treatment plants, however, overlaps a similar responsibility of the State Water Control Board. Although both review plans and specifications for sewerage systems, only the State Water Control Board has the authority to approve or disapprove a plant.

The two agencies have developed a memorandum of understanding in an attempt to eliminate overlap and duplication in their efforts. Both, however, continue to inspect the same sewage treatment plants. In fiscal year 1975, the State Water Control Board conducted approximately 1,100 inspections of sewerage treatment plants, while the Bureau of Sanitary Engineering personnel made 551 inspections. The Department of Health conducts these inspections because of the impact waste water plants have on drinking water sources. The ability to assure the quality of drinking water, however, does not require the Department of Health to duplicate the functions of the State Water Control Board. Were the State Water Control Board to have sole responsibility for reviewing plans and conducting inspections, the needs of the Department of Health could be met through the review of preliminary proposals for waste water discharge and the interchange of information on plant operations.

The state would not be sacrificing any concern for drinking water safety under this proposal. The Department of Health would continue to review information on waste water discharges while concentrating its efforts on drinking water safety. The capability of the Water Control Board to conduct reviews of plans and specifications of such plants, and conduct more frequent inspections of their operations, would be expanded because of the reassignment of resources. Both agencies would benefit and be more able to devote their attention to the programs they are best suited to undertake. The result would be enhanced program effectiveness, and potential cost savings, through the elimination of duplicative efforts.

3. Assign responsibility for the Bureau of Solid Waste to the proposed Secretary of Natural Resources.

The Commission believes greater attention should be given to solid waste management within state government. It concurs with the statement of the Solid Waste Commission that Virginia does not have an organizational structure capable of dealing with future solid waste problems.

While the original focus of solid waste management was one of protection of the public health, new pressures have broadened the focus to include natural resource concerns. The passage of the Federal Resource Recovery Act and the development in recent years of new management practices is evidence of this change. Virginia needs to develop the capability to utilize these new practices to manage the solid wastes generated within the state. Only a change in the present structure would enable the state to accomplish this goal.

The Commission recommends the activities of the Department of Health's Bureau of Solid Waste, excluding those of vector control, be transferred from the Department and assigned to the proposed Secretary of Natural Resources. Solid waste responsibilities would thus be given greater prominence and related to other natural resource agencies. Since the Bureau would initially have limited operational responsibilities, it should be known as the Division of Solid Waste Management. As the importance of the Division's role increases, consideration should be given to upgrading its status to a Department.

In its expanded role, the Division would be concerned with the applicability and economic feasibility of solid waste management practices such as recycling, resource recovery, source separation and source reduction. It would compile information on the utilization of solid waste management techniques in Virginia. The Division would also be responsible for providing assistance to state, regional and local agencies on management practices and the development of solid waste management plans. Although the Division would be responsible for improving solid waste management practices in the Commonwealth, protection of the public health would remain one of its major responsibilities.

4. Establish a Department of Recreation and Historic Preservation by consolidating the activities of the Commission on Outdoor Recreation, the Outdoors Foundation, the Historic Landmarks Commission and the Division of Parks.

At the 1977 General Assembly, the Commission introduced a resolution requesting the Governor study the state's conservation, recreation and historic activities. In his report, the Governor has taken no position on the reorganization of these activities. The Commission, however, believes the lack of coordination in this area requires some response. An initial step was taken through the transfer of the Office of Recreation to the Commission on Outdoor Recreation at the 1977 Session. At the very least, the Commission believes the effort started at the last Session should be completed at the 1978 Session. Specifically, the activities of the Commission on Outdoor Recreation, the Outdoors Foundation, the Historic Landmarks Commission and the Department of Conservation and Economic Development's Division of Parks should be consolidated into a single Department of Recreation and Historic Preservation.

Fragmentation of responsibility in the area of recreation and historic preservation reduces the overall effectiveness of the state's efforts in these areas. The Commission on Outdoor Recreation is responsible for preparing an overall state plan for recreation, yet the agencies having a role in recreation can pursue courses independent from the Commission and its planning efforts.

In addition, the various agency heads who receive funds from the Commission on Outdoor Recreation are the same ones, as members of the Commission, who allocate the funds. Although the Commission's legislation requiring the Governor to appoint members of boards provided a short-term solution to the problem, the Governor has chosen to reappoint the agency heads as members of the Commission. Thus, the conflict of interest remains.

The Historic Landmarks Commission feels it has no relationship to the recreation activities of state government and should remain a separate and distinct agency. However, the state is concerned with maintenance and preservation of historic sites and landmarks for the enjoyment and appreciation of its citizens. This Commission believes this is a form of recreation, although not in the same sense as playing golf, tennis or hiking. The Division of Parks has also assumed some responsibility with a program dealing with the preservation of historic sites. A consolidation would eliminate the duplication and overlap of activities undertaken by these agencies.

The General Assembly, in creating the Outdoors Foundation, found it is in the public interest to encourage the preservation of open space for parks, as well as for natural, scenic, historic, scientific and recreational areas. The Foundation's mission is to promote the preservation of open space lands. Thus, the activities of the Outdoors Foundation are directly related to the overall mission of the proposed Department. Under this proposal, the general powers of the Outdoors Foundation would not be changed. Its administrative services would be provided by the proposed Department, whereas the Commission on Outdoor Recreation presently provides the Foundation with administrative support.

1. Transfer responsibility for the enforcement of the state's Alcoholic Beverage Control and Motor Carrier Laws to the Department of State Police.

At the last Session of the General Assembly, the Commission recommended the state's enforcement activities be consolidated within an agency responsible to the Secretary of Public Safety. The inspection and enforcement activities of the Department of Alcoholic Beverage Control, the Enforcement Division activities of the State Corporation Commission and the activities of the State Police, would have been consolidated into the proposed Department of Enforcement and Investigation. The purpose of the recommendation was to eliminate the fragmentation, duplication and overlapping efforts of these agencies and increase their effectiveness.

At the hearings the Commission held, questions were raised about this recommendation. The Commission studied the issue further and now proposes a revision. The Commission believes there is justification for maintaining the inspection activities of the Department of Alcoholic Beverage Control within the Department. The enforcement activities of the Department, however, are not necessary to its continued operation. The Department devotes only half of its law enforcement effort to alcohol and related offenses. The other half is devoted to drug enforcement efforts. Drug enforcement, however, is also a major responsibility of the State Police. These two state agencies should not be involved in enforcing the same laws, thus, their efforts should be consolidated. This move should lead to more effective and efficient enforcement of the state's drug laws. It would also allow for an improved allocation of manpower and faster response to changing priorities. For these reasons, the Commission recommends the enforcement activities of the Department of Alcohol Beverage Control be transferred to the Department of State Police.

The Commission also recommends the enforcement activities of the State Corporation Commission's Division of Enforcement be transferred to the Department of State Police. The personnel of this Division now travel the state's highways enforcing motor carrier laws. State troopers patrol the state's highways enforcing these and other laws. Enforcement personnel of the State Corporation Commission are periodically assigned to weigh stations to enforce the state's motor carrier laws. State troopers are also assigned to weigh stations to enforce highway laws and are available to take other actions as well. The Commission sees no reason for two state agencies to perform the same functions and have concurrent jurisdiction to enforce the same laws at great expense to the Commonwealth.

The Commission does not propose the transfer of the investigatory activities of the SCC's Division of Enforcement to the Department of State Police. These responsibilities would be transferred to the proposed Department of Transportation Regulation under another Commission recommendation.

PUBLIC SAFETY

In addition, the Commission believes only those individuals essential to the enforcement effort, and fully qualified as State Troopers, should be transferred under this proposal. It is anticipated that the same level of enforcement effort would be maintained under this proposal with less manpower. Thus, the savings to be derived by this consolidation far outweigh whatever costs there may be in the initial implementation. The result of this consolidation will not only be savings in state dollars, but more effective and efficient enforcement and greater flexibility in the utilization of manpower.

The Commission recommends the name "Department of State Police" be retained as the new agency title. No substantive purpose would be served by changing the Department's name.

2. Consolidate the activities of the Capitol Police, the Criminal Justice Services Commission and the Division of Justice and Crime Prevention within a Department of Justice Planning and Safety Services.

A number of small, independent agencies now report to the Secretary of Public Safety. The Commission recommends the consolidation of these agencies into a single umbrella organization, a Department of Justice Planning and Safety Services.

The Criminal Justice Services Commission and the Division of Justice and Crime Prevention now report to the Secretary of Public Safety. As of July 1, 1978, the Capitol Police will also report to the Secretary. The Division of Justice and Crime Prevention has its own administrative staff, while the Criminal Justice Services Commission and the Capitol Police receive their administrative support from other agencies. The responsibility for providing this support is spread throughout state government. Were each of the agencies to have a fiscal staff of its own, the cost of administration would unnecessarily increase. With the establishment of the Department of Justice Planning and Safety Services, the administrative support requirements of these organizations would be consolidated within a single agency, at no increased cost to the Commonwealth. There is, in fact, a potential for savings through the creation of this administrative umbrella.

The structure the Commission proposes is very similar to the present make-up of the Department of Professional and Occupational Regulation. This approach, which is a model for the nation, allows administrative costs for operating the Department to be kept at an absolute minimum, while each independent occupational and licensing board carries out its statutorily mandated responsibilities.

The new Department would also reduce the number of small, independent agencies reporting to the Secretary of Public Safety. It would allow the Secretary to function more effectively and eliminate the need for involvement in his agencies' minor administrative problems.

3. Request the Governor to evaluate the programs of the Rehabilitative School Authority and its relationship to the Department of Corrections, and report his findings, conclusions and recommendations to the General Assembly.

The creation of the Rehabilitative School Authority in 1974 responded to the lack of an effective educational program within the juvenile and adult correctional institutions of the Commonwealth. This action coincided with the division of the Department of Welfare and Institutions into the Department of Welfare and the Department of Corrections.

The problems associated with the administration of correctional educational and rehabilitative efforts within the context of the much broader Department of Welfare and Institutions required that some action be taken. It was virtually impossible for the Director of the consolidated department to give correctional problems adequate attention. It was even more difficult to attend to the unique problems of education in the correctional environment.

Although the creation of the Authority seemed logical at the time, the ramifications of the action were not fully understood. There have been repeated problems, as pointed out in a recent Crime Commission report and other reports, regarding the relationship between the Rehabilitative School Authority and the Department of Corrections.

The Code provides the Rehabilitative School Authority with the responsibility for education, and the Department of Corrections with the responsibility for security and other rehabilitative programs. Yet the day-to-day working responsibilities of the two agencies are inseparable. There are, out of necessity, interactions and shared responsibilities between the two agencies in a number of areas. These include the assignment of inmates to educational programs or work details, the classification of inmates, the development of common capital improvement programs and the operation of physical education and recreational activities.

In its tentative recommendation, the Commission proposed that responsibility for the programs of the Rehabilitative School Authority be assigned to the Department of Corrections. There have been some reservations expressed with that proposal. However, the Commission still believes an institutional solution is necessary to resolve many of the problems facing the agencies. The movement toward such a solution should proceed. A study of the relationships and activities of the two organizations should be undertaken, for the problems need to be solved. The Governor is requested to evaluate the programs of the Authority and its relationship to the Department of Corrections. He should report his findings, conclusions and recommendations on the situation to the General Assembly.

TRANSPORTATION

1. Establish a Policy and Evaluation Staff reporting to the Secretary of Transportation; make the Secretary responsible for developing balanced transportation system plans; and make the powers of agency heads reporting to the Secretary consistent.

The Secretary of Transportation is responsible for shaping transportation policy, coordinating transportation programs and resolving conflicts between transportation agencies. The magnitude of the responsibility is such that staff assistance is needed to properly carry out the duties involved. The Commission recommends this staff be provided, utilizing personnel already employed by the state. The staff, however, should not be formalized into an organization. The Secretary of Human Resources has staff assistance, yet no formal office has been created to house that staff. This Commission believes it is the existence of the staff, rather than an office or division, which is important.

The Department of Highways and Transportation has the responsibility to develop and coordinate balanced and unified transportation system plans. Were a staff created to assist the Secretary in planning and policy matters, there would be a clear duplication of effort between their planning activities and those of the Department of Highways and Transportation. Therefore, the responsibility of the Department of Highways and Transportation to develop coordinated and balanced transportation plans is no longer necessary and should be repealed. This proposal will increase the Secretary's ability to manage his responsibilities more effectively.

A major concern of the Commission has been the relationship of the Secretary to the Commissioner of Highways and Transportation. The assignment of a staff to the Office of the Secretary to assist him in policy and evaluation matters does not change the fact that the Commissioner has "plenary powers", or full, complete and absolute powers, for the construction, improvement or maintenance of the state's highway system. The coordination of highway plans and programs with those of ports, airports or rail facilities is impossible, if the Commissioner, using his plenary powers, chooses not to cooperate or does not recognize the benefits to be gained from such coordination.

In order to place the Secretary of Transportation in the same position as the other Secretaries, the authority and responsibility of the Commissioner of Highways should be changed. The Commissioner's powers and responsibilities should be no different than any other agency head in the Commonwealth. With the Commissioner having plenary power, the chain of accountability between the Governor, the Secretary and the Commissioner is broken. If the Governor is to interpret and implement the policies and programs enacted by the General Assembly, then he and the Secretary of Transportation must be given the authority and responsibility to do so. The statute delineating the powers of the Commissioner of Highways and Transportation should be amended by repealing his plenary powers.

2. Transfer responsibility for all aviation matters, except economic regulation, from the State Corporation Commission to the Secretary of Transportation and rename the Division of Aeronautics, the Department of Aviation.

Any consideration of the state's transportation policy should include matters relating to aviation. Yet the Secretary of Transportation, the key individual in state government who plays an effective role in shaping transportation policies and coordinating transportation programs, has no responsibility for aviation matters. The responsibility lies with the State Corporation Commission.

The State Corporation Commission is a constitutionally established agency, whose primary responsibility is economic regulation. It is responsible, however, for the planning and promotion of aviation, receipt and disbursement of federal funds for airport development the maintenance of state aircraft, the operation of aviation safety programs, and the regulation of airports, carriers and airmen. It acts independently from the Governor and the Secretary of Transportation.

If the Secretary of Transportation is to effectively carry out the duties granted him by the General Assembly and the Governor, he must have jurisdiction over all modes and all aspects of the state's transportation system. The fragmentation of responsibility in transportation can only lead to a reduced level of effectiveness in the planning and development of the state's transportation network. The Secretary must have a perspective which encompasses not only highways, mass transit and transportation safety, but aviation as well.

While the economic regulation aspects of aviation should remain with the State Corporation Commission, all other aspects should not. The non-regulatory aviation programs of the SCC should be transferred to the Secretary of Transportation. Specifically, the responsibility for the State Corporation Commission's Division of Aeronautics should be assigned to the Secretary of Transportation, with the Division renamed the Department of Aviation. The Department should be responsible for all matters relating to aviation, except those of economic regulation. In this area, the Department should have the responsibility for making recommendations to the State Corporation Commission on changes in rates, services and tariffs, and on applications for certificates of convenience and necessity. The SCC, however, should maintain final jurisdiction in these matters.

In addition, Virginia's Airport Authority, a public corporation, having responsibility to plan, establish, develop, construct, maintain and operate airports and air navigation facilities should be assigned to the new Department. The powers of the Authority should not be changed, but the administration of its programs should become the responsibility of the Department. The present activities of the Authority are limited to operating Tangier Island Airport and Davison Airport in Fairfax County, although it could assume responsibility for other facilities in the future. Its focus and responsibility are

clearly related to those of the proposed Department and should be included within its structure.

A Board of Aviation would be established within the Department, responsible for the promulgation of rules and regulations, the allocation of airport development funds, and other similar responsibilities. It would advise the Director, the Secretary of Transportation, the Governor and the General Assembly on matters relating to aviation.

3. Transfer responsibility for the Virginia Port Authority from the Secretary of Commerce and Resources to the Secretary of Transportation and reestablish the Authority as the Department of Ports and Waterways.

The Virginia Port Authority is a public corporation responsible for the development of state ports, the promotion of trade, the setting and collecting of charges, and the operation of the port facilities. At present, the Port Authority is responsible to the Secretary of Commerce and Resources, not the Secretary of Transportation. This assignment was made because its transportation role was thought to be incidental to its trade development role. Trade development, however, is but an outgrowth of the port facilities operation. Without good facilities and constant attention to their quality and need for future improvement, the state would not be in a position to effectively promote trade development. The planning, development and operation of ports are unquestionably transportation-related activities and should be the responsibility of the Secretary of Transportation, as are other state transportation activities. All transportation agencies point to economic development as one of their major objectives, yet this does not mean all transportation agencies should report to the Secretary of Commerce and Resources.

Were the Secretary of Transportation responsible for port activities, he would be able to coordinate the overall activities of the state's transportation network for the first time. He would be able to relate the needs of Virginia's ports, to those of railroads and motor carriers, and coordinate the development of highways, airports and railroad facilities.

The status of the Authority as a public corporation should be changed. It should not continue to operate essentially as an autonomous body, outside the general framework of state government. It should be reestablished as the Department of Ports and Waterways with the same general powers and duties as any other department of state government. The purpose of this recommendation is to help, not hinder, port development, to coordinate its activities with those of other state transportation programs and to assure the competitiveness of Virginia ports with others on the Eastern Seaboard.

The Department should be allowed to continue to use the name of the "Virginia Port Authority" for business purposes. The business community here and abroad has identified Virginia's ports with this name and the Commission believes the Department should be allowed to use it in its operations.

The lack of funds for port development in the past has deemphasized its facilities and planning development role. The approval of the issuance of bonds for port development dramatically changed the situation. The Commission believes continued development of the state's ports will require their adequate and proper funding in the future.

4. Transfer responsibility for mass transit programs from the Department of Highways and Transportation to a new Department of Public Transportation.

Mass transit plays an important role in the state's overall transportation system. It is important not only as an alternative to automobile use, but as a basic means of transportation for many Virginia citizens. This is true, not only in the urban and metropolitan areas, but in rural areas as well. As such, the Commission believes the term public transportation is more indicative of the state's need in this area, rather than the term mass transportation. Public transportation concerns activities beyond those traditionally identified as mass transit, and has rural as well as urban implications.

Although the state's direct role in public transportation is relatively minor compared to the highway role, its concern for public transportation is not. The General Assembly has appropriated funds to assist localities in financing capital improvements and planning and research activities related to public transportation; passed legislation enabling localities to create transportation districts to assist in the development of transit facilities and other modes of transportation; authorized the undertaking of transit-related highway projects at the local level to broaden the appeal of public transportation; and authorized technical assistance to transportation districts and local governments to aid them in identifying public transportation needs and funding sources.

At the present time, the Department of Highways and Transportation is responsible for the administration of mass transit funds and the development of mass transit policies. A small staff has been created in the Department's Division of Planning within a Bureau of Transportation Planning.

If public transportation is to receive the attention it deserves, however, it must be considered separate from highway issues. With the Department of Highways and Transportation responsible for mass transit, it is impossible for mass transit to be considered separate from highway concerns. Although the Commission recognizes public transportation and highway development are at times closely related, public transportation objectives may not always coincide with highway objectives. The Commission believes public transportation should be considered on its merit. Questions of balance and emphasis cannot be properly answered in an environment overwhelmingly devoted to a single mode.

The Commission recommends the transfer of mass transit activities to a new Department of Public Transportation, responsible to the Secretary of Transportation, to administer the state's transit and transit-related programs. As the Governor's Council on Transportation has noted, technology, skills and individual interests of highways and mass transit are sufficiently dissimilar to justify separate operations of the two organizations. The Commission believes the importance of public transportation, and the need for greater visibility, justifies the creation of this Department.

The creation of the Department of Public Transportation also provides the Secretary with a direct link to needed information on public transportation. If the Secretary is to develop a balanced transportation policy for the Commonwealth, he must have access to information on each mode. Presently, the Secretary has no direct access to staff or information since the responsibility for mass transit is now placed several layers down in the Department of Highways and Transportation. The creation of a new Department, equal with the other agencies responsible for transportation would provide direct access to the expertise he needs, and should have, to carry out his responsibilities.

The Department would be responsible for determining present and future public transportation needs in the state's urban and rural areas; developing goals, policies, plans and programs for the development of public transportation in the Commonwealth; providing assistance to localities in the planning, funding and operation of their own systems; administering federal and state funds for planning and research activities; and administering funds for the financing of local capital improvements for public transportation.

No additional funds would be needed to operate the new Department since the staff assigned to mass transit activities in the Department of Highways and Transportation would be transferred to the new Department, as would its appropriations for mass transit activities.

5. Consolidate the state's transportation safety activities within a single agency responsible to the Secretary of Transportation.

The tentative recommendation of the Commission proposed the creation of a Department of Transportation Safety to review all modal activities in an effort to encourage transportation safety, evaluate safety activities and develop programs and policies.

Further action on this proposal was deferred, however, pending the completion of the work of the Governor's Council on Transportation. Since the Governor's Council did not address the issue in their report, the Commission reaffirms its recommendation to create a Department of Transportation Safety.

Under the Commission's original proposal, the Department of Transportation Safety was to be a broadly-empowered agency. Upon review, however, the goals of the Department seem achievable by an agency of reduced powers and scope, reporting to the Secretary of Transportation.

The Department's responsibilities should include evaluating the status of safety in all transportation modes in the Commonwealth; assessing the nature of needed safety improvements by mode; developing policies and programs to enhance the safety of the state's highways, railways, waterways and airways; and developing educational and training programs which encourage transportation safety. The Commission believes the safety aspects of transportation must be considered separately from the development and operation of transport facilities.

Specifically, the Commission recommends all activities of the Highway Safety Division be included within the new Department. In addition, limited railway and aviation responsibilities of the State Corporation Commission should be transferred to the new Department. In its presentation to the Commission, the Highway Division indicated its agreement with the concept of a Department of Transportation Safety, stating that such a Department would be in the public interest and be likely to yield managerial benefits. The Department, however, should not have any responsibility for the safety activities of the Department of the State Police or the Division of Motor Vehicles as previously proposed. The Commission recognizes these activities are an integral part of their programs.

**STATE CORPORATION
COMMISSION**

1. Continue the State Corporation Commission's Constitutional role of setting rates, issuing certificates of convenience and necessity, regulating the services of public service companies and administering state corporation laws.

The State Corporation Commission was created in 1902 because of a widely-held belief that the legislative process was not operating effectively in the area of economic regulation. It was given formal independence from all three branches of government so it could function free of political influence. The Commission was empowered to set rates which could not be altered by the executive or legislative branches and to issue and enforce its own orders as a court of record.

The role of the State Corporation Commission has expanded far beyond that originally intended for it. Over 53 new statutory duties have been added to its original constitutional mandate, giving it the broadest jurisdiction of any state regulatory body in the nation. It presently exercises executive, legislative and judicial powers over public utilities, banks, insurance companies, securities, motor carriers, pipelines, railroads and airports and airline companies. The addition of these responsibilities over and above its original constitutional mandate has significantly increased the workload of the Commissioners.

The need in 1902 to meet the challenge of regulation overshadowed the problems inherent in granting any one governmental body judicial, legislative and executive powers. The General Assembly continued to overlook these problems in the years since the Commission's creation for the same reason. Rising utility rates, a concern with the scope of the State Corporation Commission's jurisdiction, and the public's demand to be adequately and fairly represented before regulatory bodies, have caused the citizens of Virginia to reconsider the premises upon which the State Corporation Commission was built. The need for such a body, with its broad grant of authority, and the problems inherent in its makeup, is now being questioned as never before. This Commission believes the problems are real and should be addressed.

The independent status of the State Corporation Commission is one problem which needs consideration. This independence has a decided effect on how the SCC's activities are administered and its relationship to the other branches of government. The State Corporation Commission and the executive branch share common interests, particularly in the area of energy and transportation, yet there is a lack of any formal mechanism for the planning and coordination of their activities. The creation of any mechanism is frustrated by the independence of the State Corporation Commission. In addition, the executive branch has been reluctant to become involved in the deliberations of the State Corporation

Commission since it does not have direct responsibility in these areas. The current organization provides no means for input from the executive branch in hearings before the SCC except through the Attorney General. For this reason, many of the economic issues confronting the state (e.g., energy and transportation issues) are resolved without significant input from the Governor or agencies of the executive branch, other than the Attorney General.

The workload of the Commission is another problem. The substantial executive duties of the State Corporation Commission, and the time which must be given to administering these duties, place the Commissioners in a position where they must either divert their attention from the rate-making, rule-making and adjudicative responsibilities to these executive responsibilities, or neglect them.

The lack of independence of the Commission staff is still another problem. It affects their ability to truly represent the public interest. Since the personnel of the Commission are hired, fired, promoted and given raises by the Judges, they may be overly influenced by the Judges in the development of cases, in the conduct of investigations or in the review of complaints. The same lack of independence on the part of the staff means there is no public representative in private meetings when the Judges confer with officials of regulated industries.

Another problem is the potential for abuse which exists when any judicial body controls both the personnel who develop evidence and investigate violations, and the counsel who appear before it. The state's Commonwealth's Attorneys are not controlled by the Circuit Courts before whom they appear, because of the recognition of this problem. Yet, the State Corporation Commission controls its investigators and counsels.

Finally, the staff attorneys who argue the Commission's staff position on issues before the Commissioners and determine how vigorously to pursue the case, also advise the Commissioners during their deliberations and draft their opinions. These same people must also represent the State Corporation Commission when decisions are appealed to the Virginia Supreme Court. These lawyers must play three different roles, some of which are conflicting. They are placed in a very difficult position and the quality of the decisions made by the Commissioners are affected by this situation.

The Commission believes changes must be made in the present structure of the State Corporation Commission in response to these very real concerns and problems. Certain issues should continue to be dealt with by the State Corporation Commission rather than by popular vote or the vote of elected representatives directly responsible to the electorate. Other issues, however, should not be resolved by the State Corporation Commission.

This Commission recommends the State Corporation Commission continue its rate-making, rule-making and adjudicative activities. There must, however, be some clear division made between these responsibilities and those which are executive or administrative in nature. This separation is necessary both to insure the independence of the judicial and legislative activities of the State Corporation Commission, and to subject the executive decisions to policy-making input by elected officials directly responsible to the people of Virginia.

When seen in the context of the following recommendations, this recommendation makes the State Corporation Commission an administrative court concerned with economic regulation and administration of corporation laws. Its identity as a court of record would be highlighted; its executive duties, however, would be transferred.

Virginia is not the first, nor will it be the last, to propose executive responsibility in the regulatory process be separated from judicial and legislative responsibility. North Carolina and Utah have adopted structures which provide a complete separation between their utilities commissions and what is known as their executive staffs. The directors of the executive staff in these states are appointed by the Governor subject to confirmation by their General Assemblies.

To carry out their legislative and judicial responsibilities, the Judges will require, and should have, a staff of their own. The Commission recommends this staff have backgrounds in accounting, economics, and rate design. It should not, however, be a large staff. Since neither Utah nor North Carolina have large staffs to support the Commissioners in their legislative and judicial capacities, there is no reason to believe Virginia would require a staff significantly larger than the other states.

In addition to this professional staff, three attorneys from the State Corporation Commission's General Counsel's Office should be assigned to the staff of the Judges. The professional and legal staff might be placed within an "Office of Opinions and Review" to distinguish them from the other staff of the Judges. The other staff members would include a bailiff, an assistant bailiff, court reporters, clerks and the necessary clerical personnel to assist the Judges in their activities.

The State Corporation Commission would also continue to be responsible for the administration of the state's corporation laws, a function now carried out by the Clerk of the Commission, and for the administration of the state's Uniform Commercial Code.

2. Transfer executive responsibilities for public utility regulation to a Department of Public Utilities responsible to the Secretary of Agricultural and Economic Resources.

In line with the previous recommendation, the State Corporation Commission's routine regulation and executive supervision of the public utilities should be separated from its legislative and judicial functions. This separation would assure the governmental review of public utility operations independent of legislative or judicial action by the SCC. This action would protect the public, as well as the industry and the SCC, by promoting the establishment of clearer procedures governing the regulation of public utilities. The separation would also limit the potential for arbitrary governmental regulation since each party would play a distinct role in regulation and would exert a restraining influence on the other.

To achieve this separation, a Department of Public Utilities should be established within the executive branch responsible to the proposed Secretary of Agricultural and Economic Resources. The Department would monitor and supervise public utilities, including electric, gas, telephone, water and sewage companies. It would attempt to settle consumer complaints, make any necessary inspections of utility operations, do all field work and research, and carry out any necessary enforcement actions. The public utilities would file all required information with both the Department and the Commission, including rate schedules and financial data.

The State Corporation Commission would continue to make decisions on the setting of rates, the issuance of certificates of convenience and necessity, and the approval of all major developments, including the utilities' five and ten-year forecasts, utility facilities, transmission lines and dams. In addition, the SCC would issue all regulations and hear all appeals from decisions of the Department. Any interested party could appeal any Department decision to the SCC. The Department would be required to file reports and make recommendations on public utilities matters coming before the SCC.

The proposed Department would succeed the SCC's Public Utility and Accounting Divisions. It would continue the work of these existing divisions in the following areas:

- Rates. The Department would receive all applications for rate increases and charges, employ all consultants, and prepare recommendations for the Commission's consideration in rate hearings.
- Licensing and Certification. The Department would investigate licenses and all certification applications of public utilities. Since certification and licensing decisions involve a determination of the public interest, they would continue to be made by the Commission, after receiving the report of the Department.

- Examination. The Department would be responsible for both routine audits and those conducted in preparation for rate cases, the review of all financing programs and the review of reports filed periodically by the utilities.
- Monitoring the Quality of Service. The Department would handle the investigation of service complaints, examine the acts and practices of utilities and examine and test the utilities' service equipment.
- Utility Construction. The Department would be responsible for analyzing all petitions for utility construction, together with the utility's forecasted program of operation. It would then submit a formal recommendation to the Commission, which would retain the right of approval on such construction after hearing.

All rules and regulations affecting public utilities would continue to be promulgated by the Commission and all decisions of the Department would be subject to appeal to the Commission. The major change affected in this reorganization is to interject a degree of formality between the executive functions of the SCC in utility regulation and its judicial and legislative duties. The need for independence from the SCC is best illustrated in the Public Utility Division's present efforts to develop standards and guidelines for the regulation of rates and services. As long as the Divisions are wholly creatures of the SCC, it is difficult to evolve a clear set of guidelines which can be applied evenhandedly by an executive agency and reviewed independently by an essentially judicial and policy-making body.

The new Department would report to the Secretary of Agricultural and Economic Resources. Its Director would be appointed by the Governor, subject to approval by the General Assembly. He would serve at the pleasure of the Governor for a term coincident with that of the Governor. Employees of the SCC's Public Utility and Accounting Divisions would be transferred to and staff the Department.

3. Transfer executive responsibilities for insurance regulation to a Department of Insurance responsible to the Secretary of Agricultural and Economic Resources.

The State Corporation Commission is presently responsible for the regulation of Virginia's insurance industry. The need to separate the SCC's executive duties associated with insurance regulation from its legislative and judicial activities requires the establishment of a Department of Insurance, responsible to the proposed Secretary of Agricultural and Economic Resources. This Department would administer the state's insurance laws in basically the same manner as the existing Bureau of Insurance. It would carry out financial, investigatory and record-keeping functions and make most initial decisions subject to the review of the State Corporation Commission on appeal.

The new Department of Insurance would continue the work of the existing Bureau in the following specific areas:

- Licensing of companies, agents, brokers and underwriters. Applications and renewals would be reviewed and acted upon by the department with its decisions final unless review by the SCC is requested.
- Examination. Yearly examinations of insurance companies to detect any financial instability would be handled by the new Department. The SCC's involvement in cases of incipient instability would be dependent on a request for a formal hearing either by the Department or the company. The specific role of the SCC in cases of insolvency would remain the same.
- Rate-review. The Department would continue to review all "file and use" rate filings and make recommendations to the Commissioners as currently done by the Bureau. In the case of those rates subject to prior approval, the Department would analyze the proposed rates, and make a formal recommendation to the Commission as a part of its rate hearing.

As rate-making is a legislative function, the SCC would be able to institute insurance rate hearings on its own motion, although the results of the Department's analysis and its recommendation would be presented as part of the hearing. The basis change proposed in this area is that all examinations and analysis would be handled by the Department, while rates would continue to be determined by the SCC.

- Revocation. All license revocations would be handled by the SCC, after full hearing and after receiving the recommendation of the Department.
- Taxation. Those license taxes and gross premium income taxes on insurance companies which are currently collected by the Bureau of Insurance for payment to the General Fund would be collected by the Tax Department.

The SCC would continue to promulgate regulations, control rate-making and issue orders in contested situations. The insurance unit would have independence from the SCC so that adversary proceedings could be conducted and a more formal record be made in hearings.

The Director of the new Department would be appointed by the Governor, subject to General Assembly confirmation, and serve at the pleasure of the Governor for a term coincident with the Governor's. Its employees would be transferred to staff the Department.

4. Transfer executive responsibilities for banking regulation to a Department of Banking responsible to the Secretary of Agricultural and Economic Resources.

In keeping with the policy of separating the State Corporation Commission's executive functions from their legislative and judicial duties, this Commission recommends the establishment of a Department of Banking within the executive branch, responsible to the proposed Secretary of Agricultural and Economic Resources.

The new Department of Banking would be responsible for the administrative and routine regulatory functions the State Corporation Commission now exercises over banks, savings and loan companies, industrial loan associations, credit unions and small loan companies.

The new Department would continue the work of the existing Bureau of Banking in the following specific areas:

- Examination. The Department would have the responsibility for receiving all filings of banks and financial institutions, carrying out examinations, and making the more routine decisions relating to the financial health of the institutions within its jurisdiction.
- Certification and Licensing. The Department would be responsible for all filings necessary prior to the certification of banks, savings and loan associations. Specifically, a thorough investigation of the application would be conducted, with all information being developed by the Department concerning the financial promise of the proposed entity, as well as the competitive structure and needs of the market it will enter.

As a determination of the public interest is required for certification of new banks and savings and loan associations, the decision to issue a certificate will continue to be made by the Commission, after receiving the report of the Department.

Credit unions and small loan companies are licensed, rather than certified, and no public interest determination is required. Therefore, these entities would be licensed, after investigation, by the Department. By statute, no new industrial loan associations can be established.

- Branching and Mergers. The decision to allow a bank or savings and loan association to branch or merge requires a determination of public interest. Therefore, these decisions would continue to be made by the State Corporation Commission, after receiving the report of the Department, which would conduct all investigations and examinations required by law.

All decisions of the Department could be appealed to the State Corporation Commission. The Commission would continue to make the major emergency decisions, such as closing or suspending the business of an institution. It would continue to exercise all the legislative and judicial functions it now performs.

This reorganization would require that in all matters before the SCC which involve the authority of the Department of Banking, including the promulgation of rules and regulations, the Department take an active part and make public its findings and views. These statements would become part of the official record of the SCC. This requirement would emphasize the separateness of the two bodies, as well as the degree of influence and cooperation.

The Director of the Department would be appointed by the Governor, subject to approval by the General Assembly. He would serve at the pleasure of the Governor for a term coincident with that of the Governor. Employees of the SCC's Bureau of Banking would be transferred from the SCC to staff the new Department.

5. Transfer executive responsibilities for securities regulation to a Department of Securities and Retail Franchising responsible to the Secretary of Agricultural and Economic Resources.

The transfer of executive responsibilities for securities regulation from the State Corporation Commission would assure a governmental review of securities operations independent from any legislative and judicial action by the Commission. These responsibilities would be assigned to a Department of Securities and Retail Franchising, while the State Corporation Commission would continue to execute legislative and judicial responsibilities in this area.

The proposed Department of Securities, under the proposed Secretary of Agricultural and Economic Resources, would be given the authority to administer the Virginia Securities Act, the Take-Over Bid Disclosure Act and the Virginia Retail Franchising Act. This authority would be divided, in accordance with present practice, between the Department and the SCC. The Department would make most initial decisions subject to appeal to the State Corporation Commission. The Commission would retain the power to promulgate regulations, hold hearings, and issue orders in contested situations. Where hearings before the SCC are held, whether on appeal from the Department or not, a true adversary proceeding should occur, and a full record made.

The proposed Department would continue the work of the SCC's present Division of Securities and Retail Franchising in the following areas:

- Licensing. The Department would be responsible for the licensing of securities broker-dealers, agents of securities issuers, and agents of broker-dealers.
- Registration. The Department would register securities issued under the notification, coordination and qualification sections of the Securities Act. In addition, the Department would approve the registration of retail franchises, as well as the registration of take-over bids.
- Examination. The Department would be responsible for the examination of all financial and general information required for the licensing of securities issuers, securities agents and broker-dealers. It would also examine all disclosures, material, financial and otherwise, required under the provisions of the Take-Over Bid Disclosure Act and the Retail Franchising Act.
- Determination of Adequacy. The Department would determine the adequacy of all disclosure information required under the statutes it administers and license or register accordingly.

- Investigation. The Department would investigate all complaints filed under the above statutes and would audit securities broker-dealers on a regular basis.
- Revocation. The Department would recommend revocation of the license of securities agents or broker-dealers, securities registrations, and franchise registrations subject to review by the SCC.

The Department could apply to the SCC for injunctions, subpoenas, orders requiring surety bonds, or show cause orders. In the case of the Securities Act, the Department could request changes in rules and regulations as needed, subject to full hearing by the Commission.

The administration of the Virginia Trademark and Service Mark Act should remain entirely within the SCC, as it is closely related to the work of the Clerk's Office.

The new Department would be under the supervision of a Director appointed by the Governor, subject to confirmation by the General Assembly. He would serve at the pleasure of, and for a term coincident with that of, the Governor. Employees of the present Division of Securities and Retail Franchising would be transferred to the executive branch to staff the new Department.

6. Transfer the Public Service Taxation activities of the State Corporation Commission to the Department of Taxation.

The tax collection responsibilities of the State Corporation Commission are closely related to those of the Department of Taxation. The Commission collects state gross receipts taxes and special revenue taxes from public service companies, while the Department of Taxation collects corporate income taxes from many of the same companies. In addition, the Department of Taxation is responsible for the collection of delinquent taxes owed the State Corporation Commission by public service companies.

The State Corporation Commission also assesses property of public service companies for local taxation. Although the assessment of local property not belonging to such companies is done by local officials, the State Department of Taxation usually advises or supervises such efforts.

This Commission believes the duties of assessing property and collecting taxes are not appropriate ones for a judicial body. It also believes two agencies should not perform similar activities independent of one another. Since the major responsibility of the Department of Taxation is the collection of taxes, the Commission recommends the State Corporation Commission's tax assessment and collection responsibilities be transferred to the Department. This approach is preferable to the transfer of the assessment and collection responsibilities to the proposed Department of Public Utilities which would only continue the separation of such efforts.

The Department of Taxation should carry out the following duties now performed by the Public Service Taxation Division of the State Corporation Commission:

- assess the property of public service corporations for local taxation,
- assess and collect state gross receipts taxes from public service companies.
- assess rolling stock of freight car companies and rolling stock of Virginia certificated motor vehicle common carriers, and
- assess and collect special revenue taxes which fund the public utilities divisions.

7. Consolidate the investigator activities of the State Corporation Commission's Enforcement Division and the activities of the Motor Transportation Division, Commerce Counsel Division, and Motor Carrier Taxation Division within the Division of Motor Vehicles. The expanded agency should be renamed the Department of Transportation Regulation.

The State Corporation Commission, by statute, is presently responsible for the regulation of motor carriers. As in the other areas of its regulatory jurisdiction, the Commission should continue its constitutional and statutory role as both a legislative and judicial body. Its administrative and executive motor carrier activities, however, should be transferred to the executive branch. The State Corporation Commission should no longer have jurisdiction over those responsibilities such as registration, tax collection, investigation and enforcement which are generally identified as executive. It should continue to grant certificates of convenience and necessity; prescribe and enforce like a court of record requirements, rules and regulations necessary for the administration of the state's Motor Carrier Laws; and regulate and control rates and charges of such motor carriers.

All motor carriers using Virginia highways, and the vehicles they own, are required to be registered with the Motor Transportation Division of the State Corporation Commission. Motor carriers domiciled in Virginia are also required to be registered and licensed with the Division of Motor Vehicles. The two agencies are performing the same activities involving the same client group, thus, a clear case of duplicative effort. To improve the effectiveness and efficiency of the registration operation, the activities of the Motor Transportation Division should be consolidated with those of the Division of Motor Vehicles. The name of the agency should be changed to the Department of Transportation Regulation to reflect the expansion of its responsibilities. The Department, however, should be allowed to use the logo "Division of Motor Vehicles" in its dealings with the public.

An examination of the activities of the Enforcement Division in the State Corporation Commission indicates only a limited portion of their effort is devoted to enforcement matters. The overwhelming efforts of the Division relate to investigations associated with the Commission's motor carrier responsibilities. These investigatory activities should be transferred to the new Department of Transportation Regulation. Since they are supportive of the SCC's other motor carrier activities, this would allow the present relationships to continue without interruption. Since the Division of Motor Vehicles also has a field investigatory force to support its own registration activities, these two forces should be consolidated. The consolidation would provide for a more effective allocation of manpower, more efficient agency operations and a reduced demand for additional personnel.

Enforcement responsibilities of the present Enforcement Division should be treated differently. This subject is discussed on page 35 of this report under the Commission's recommendation concerning the assumption of enforcement responsibilities by the Department of State Police.

Historically, the State Corporation Commission's Commerce Counsel Division provided legal assistance to its Divisions supervising motor carriers, aviation and railroads. While it is still responsible for rate activities and other transportation-related functions, the Commerce Counsel was transferred out of the Division in 1975 and placed within the General Counsel's Office.

The remaining transportation-related functions of the Commerce Counsel Division should be transferred to the new Department, including the present activities relating to transportation rates. These include the receipt of filings for changes in rates and tariffs, the review of such filings, and the preparation of draft rules and regulations for consideration by the SCC. The Department should also be responsible for receiving and reviewing license applications for brokers of transportation services, as well as applications for certificates of convenience and necessity filed by motor carriers. All certificates would continue to be issued by the SCC since a public interest determination is involved.

The Division's responsibility for railroad matters should also be transferred to the Department. Consideration should be given to establishing a Bureau of Railway Services within the Department in view of the increasing importance of this mode to the economic well-being of the Commonwealth. The Bureau would be responsible for reviewing levels of service; the adequacy of railroad facilities; changes in rates, charges and tariffs; and other matters related to railroad operations in the Commonwealth.

Every motor carrier operating on Virginia highways is required to pay both a road tax and corporate income tax. Currently, each carrier files a quarterly road tax report with the SCC's Division of Motor Carrier Taxation, together with the amount of tax due. Because of the relationship of this activity to other state activities concerning motor carriers, the Division should also be transferred to the Department of Transportation Regulation.

8. Make the Attorney General responsible for representing only the public interest before the State Corporation Commission and other bodies.

The issue of consumer representation before the State Corporation Commission and other bodies is a perplexing one. The vast number of individuals, who are users of electricity, natural gas or other goods and services produced by firms regulated by the SCC, lack the resources and organization to compete with the producers in proceedings before the SCC. In addition, the interests of these individuals as consumers may not coincide, yet they are all consumers.

The Constitution charges the State Corporation Commission with ensuring the representation of consumer interests in hearings before it. The Constitution also states the General Assembly may provide for the representation of consumer interests before the SCC in some fashion. In 1970, the General Assembly created the Division of Consumer Counsel in the Office of the Attorney General. The SCC feels the General Assembly, by establishing the Division of Consumer Counsel which is charged with "represent(ing) the interests of the people as consumers", provides a fair means of representation for the consumer.

The interpretation of this grant of authority by former Attorneys General has led them to balance their responsibility for representing the consumer interest with their broader responsibility for representing the public interest. The result is a position virtually indistinguishable from the public interest. Thus, for all intensive purposes the Attorney General is serving in his traditional role as the legal representative of all the people, rather than an advocate for a statutory-designated group.

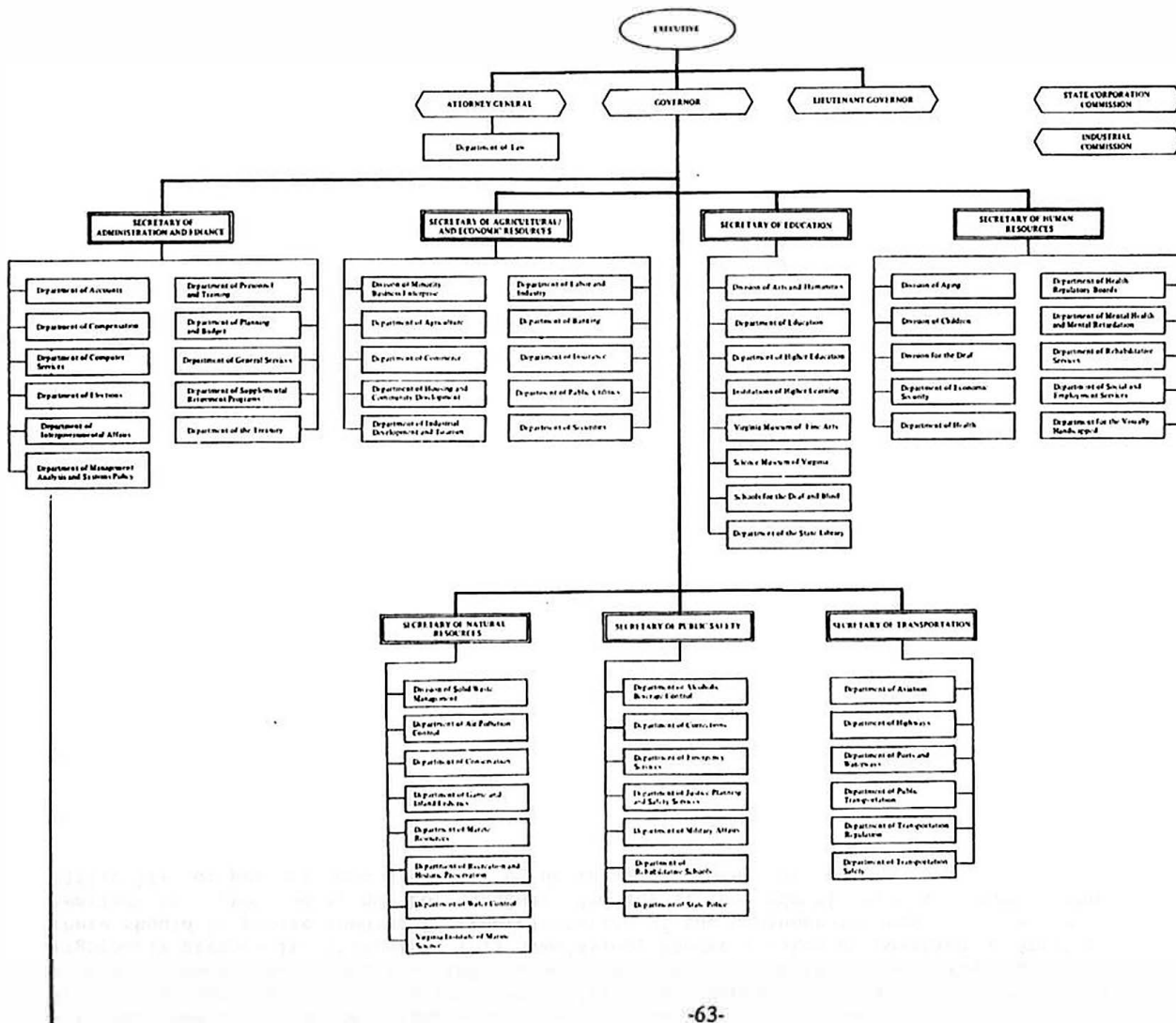
Earlier Attorneys General have felt the representation of the proposed Departments of Public Utilities, Banking, Insurance or Securities before the SCC, would pose no difficulty for them. The point was made that the Attorney General's representation of executive departments before the SCC would be no different from the existing requirements. His Office already represents the consumer through the Division of Consumer Counsel, while also representing the state's various regulatory boards and commissions.

A potential problem does exist, however, whenever the state is required to take a position in a legal proceeding other than one of the broad public interest. Any time the consumer interest differs from the broader public interest, there is an implicit conflict within the Attorney General's office.

The Commission recommends the Attorney General represent only the broader public interest and his responsibility for representing consumers be repealed. It may be his perception of public interest will equal one or more consumer interests from time to time, however, this may not be so in all cases.

The argument will still be heard that consumers need to be represented before the SCC with the same single-minded vigor which characterizes representation of utilities. Some insist consumer views cannot be represented fairly and adequately in an adversary setting when the consumer representative takes a balanced position, while the opposing side vigorously presses its interests. This Commission, however, takes no position on whether there should be public funding for representation of the consumer interest. The recent hearings on a proposed agency for consumer advocacy at the federal level illustrated the difficulty, or perhaps impossibility, of defining "consumer interest."

PROPOSED ORGANIZATION OF EXECUTIVE BRANCH



STATEMENTS OF MEMBERS

The legislative members of the Commission reserve the right to take positions they feel appropriate when measures sponsored by the Commission are considered by the 1978 General Assembly.

The following members of the Commission have dissented from the Commission's position that the executive responsibilities of the State Corporation Commission in public utilities, banking, insurance and securities regulation be transferred to department's responsible to the proposed Secretary of Agricultural and Economic Resources:

Senator Elmon Gray	Delegate Joseph A. Leafe
Senator Edward E. Willey	Delegate Owen B. Pickett
Delegate Raymond R. Guest, Jr.	Delegate Robert E. Quinn

In addition, Delegate Owen B. Pickett, offers the following statement:

I am unable to concur with the recommendations of the Commission on the following issues:

1. The creation of a new Secretary of Natural Resources.
2. The consolidation of the state's Industrial Development and Travel Service activities.
3. Termination of the independent status of the Virginia Truck and Ornamentals Research Station.
4. Eliminating the enforcement activities of the Alcoholic Beverage Control and the State Corporation Commission.
5. A proposal to transfer and rename the Virginia Port Authority.
6. The various proposals to transfer regulatory functions from the State Corporation Commission and lodge them in the executive branch of government, so that the political process may be clearly reflected in the regulatory program.

Numerous discussions have been held concerning these matters and I will not labor the issues here with all the arguments and data bearing on my decisions. Sufficing to say, that in my judgment, no persuasive or compelling case has been made in support of any of the foregoing issues which would justify the action recommended by the Commission. I cannot bring myself to support organizational changes in state government which in my judgment will result in creating the very situation which this Commission was charged with attempting to eliminate.

Respectfully submitted,

William B. Hopkins

William B. Hopkins, Chairman
Senate

Carl E. Bain

Carl E. Bain

Adelard L. Brault

Adelard L. Brault
Senate

Elmer T. Gray

Elmer T. Gray
Senate

Joseph A. Leafe

Joseph A. Leafe
House of Delegates

W. L. Lemmon

W. L. Lemmon
House of Delegates

Clinton Miller

Clinton Miller
House of Delegates

Owen B. Pickett

Owen B. Pickett
House of Delegates

Robert E. Quinn

Robert E. Quinn
House of Delegates

Richard D. Robertson

Richard D. Robertson

Edward E. Willey

Edward E. Willey
Senate

Carrington Williams

Carrington Williams
House of Delegates

William L. Zimmer, III

William L. Zimmer, III

Raymond R. Guest, Jr.

Raymond R. Guest, Jr.
House of Delegates

James B. Murray

James B. Murray
House of Delegates