WEST VIRGINIA LEGISLATURE

Joint Committee on Government and Finance

Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division
Building 5, Room 751A
Capitol Complex
1900 Kanawha Blvd., E.

Area Code (304)
Phone: 347-4880
Fax: 347-4889

CHARLESTON, WEST VIRGINIA 25305

MEMORANDUM

TO: Legislative Post Audit Committee

FROM: Ted Shanklin, Director
Legislative Post Audit Division

SUBJECT: Interest Earnings on Public Employees Agency (PEIA) funds and other special revenue moneys

DATE: July 25, 1997

During the June 1997 interim meetings, the Legislative Post Audit Committee received and released the post audit of the West Virginia Public Employees Insurance Agency (PEIA). The Committee asked us to find answers to the following questions as a result of their discussion of the audit: 1. What was the amount of interest earned from special revenue funds which was directed to the State General Revenue Fund during the period July 1, 1996 - May 31, 1997?; 2. How much of this amount of interest was attributable to funds belonging to the PEIA?; and, 3. Who has legal ownership of interest earned on premium funds paid to PEIA by local governments?

With respect to question 1, we analyzed the interest earnings credited and transferred to the State General Revenue Fund for the period July 1, 1996 - May 31, 1997, which totaled $20,418,406.66. Of this $20,418,406.66, we determined $7,164,578.22 was directly related to the investment of General Revenue Fund moneys and $13,253,828.44 was earned from investment of other funds. Therefore, 64.91% of the interest credited to the State General Revenue Fund was earned through the investment of other funds, while 35.09% of the interest credited to the General Revenue Fund was earned by investing accumulated General Revenue moneys.

Also, we determined the amount of interest credited to the State General Revenue Fund during the period July 1, 1996 - May 31, 1997 which related to PEIA funds totaled $2,155,661.55. This amount represents 16.26% of the $13,253,828.44 noted earlier which was earned through the investment of funds other than General Revenue money. If these interest earnings had instead been made available to PEIA, the State General Revenue Fund's interest earnings would have been reduced by $2,155,661.55 to a total of $18,262,745.11. Since these interest earnings are included in the official revenue estimate, the State's general revenue surplus for fiscal year 1997 would have been reduced in the amount of $2,155,661.55.

Lastly, we contacted Mr. John Homburg, Senior Attorney in the Legislative Services Division to secure his concurrence with our position that any interest earnings earned through the investment of premiums paid by local governments would belong to PEIA and not be refundable back to the respective local governments. The response received from the Legislative Services Division dated July 18, 1997 (copy attached) clearly indicates such interest earnings, if any, would belong to PEIA and states in part, "...It appears to us that once moneys are paid as premiums by local governments to PEIA, the moneys are from that point forward under the control of PEIA and "belong" to PEIA, with the state treasurer acting as custodian of the moneys on behalf of PEIA...."

WEST VIRGINIA LEGISLATURE
Legislative Services Division

Building 1, Room E-140
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4800
(304) 347-4819 FAX

John Homburg
Senior Attorney

To: Ted Shanklin, Director, Legislative Post Audit Division

From: George Freeman

Subject: Interest earnings on moneys invested by PEIA from premiums paid by local governments.

Date: July 18, 1997

John Homburg and I have looked into your question as to "ownership" of interest earnings on PEIA premiums paid by local governments. We concur with your opinion that the interest earnings would belong to PEIA. West Virginia Code § 5-16-18, which relates to payment of PEIA premiums by employers, states that "all other employers not operating from the general revenue fund shall pay to the director their share of premium costs" and that "all moneys received by the public employees insurance agency shall be deposited in a special fund or funds as are necessary in the state treasury and the treasurer of the state shall be custodian of the fund or funds and shall administer the funds in accordance with the provisions of this article or as the director may from time to time direct". It appears to us that once moneys are paid as premiums by local governments to PEIA, the moneys are from that point forward under the control of PEIA and "belong" to PEIA, with the state treasurer acting as custodian of the moneys on behalf of PEIA. PEIA would then have the authority to make these moneys available to the Board of Investment under § 12-6-8, which states that "each board, commission, department, official or agency charged with the administration of state funds is hereby authorized to make moneys available to the board for investment".

Also, we have not found any countervailing legal authority that would indicate that such interest earnings would belong to the local governments who made the premium payments. We can find no reason why the interest earnings would not belong to PEIA.

If you have any further questions regarding this matter, please contact me.

State of West Virginia

OFFICE OF THE STATE TREASURER

CHARLESTON, WV 25305

JOHN D. PERDUE
STATE TREASURER

JERRY SIMPSON
ASSISTANT STATE TREASURER

1-800-4CASHWV
304-343-4000
FAX 304-348-6802

July 23, 1997

RECEIVED
JUL 28 1997
Legislative Manager

Aaron Allred, Legislative Manager
Legislative Auditor's Office
Building 1, Room E-132
Charleston, WV 25305

Dear Mr. Allred:

I am in receipt of a letter from Auditor Gainer and Secretary Teets concerning the budgetary impact of allowing all state agencies to invest their funds. I have requested my staff to do an analysis as to both the impact it would have on the general revenue fund and the ability of my office to meet our daily liquidity needs.

Over the years, mandates have been placed upon this office to fund programs for various state agencies. Our office is required to make available to the Economic Development Authority (EDA) up to \$165 million for economic development loans. As of this date, \$111,008,556 of loans has been made. This leaves a balance of \$53,991,444 of potential obligations to EDA. Obligations to the State Building Commission amount to \$101 million. As of this date, we have \$4,892,398 in loans outstanding. Therefore, we have a potential obligation of \$96,107,802 to the State Building Commission.

On any given day we could have as much as \$150 million in outstanding checks. These obligations must be funded from the liquidity maintained in investments in the Consolidated Fund. As of June 30, 1997, the state's participation in this fund was \$294,943,378. The chart below reflects the impact of these obligations.

EDA obligations	\$53,991,444
State Building Commission obligations	96,107,802
Potential check clearings	150,000,000
Total of potential obligations	\$300,099,046
State's participation in investment fund	294,943,378
Potential obligations that exceed participation	\$5,155,668

If all potential obligations were to occur at the same time, we wouldn't have enough liquidity to meet them. These liquidity concerns also relate to allowing all state agencies to invest their funds. As of July 17, 1997, Fund 13 had an ending balance of \$324,155,455. If all these funds were invested, we wouldn't have sufficient liquidity to allow this to occur and still meet the mandates described above. Also, it would mean a loss of income in excess of \$17 million to the general revenue fund. This estimate is based upon the June rate of return of 5.33%. The revenue estimates for the 1998 FY are \$24,150,000.

It should be noted that I talked with Russ Brown of the Public Employees Insurance Agency (PEIA) a few weeks ago about PEIA investing their trust funds and agreed with his analysis of their situation and agreed to allow for the investment of their funds.

I hope this analysis of the liquidity requirements of my office helps explain the problems we face in being able to maintain sufficient liquidity to especially make the loans necessary to continue building the regional jails. If you have any questions or need any additional information, please call Jerry Simpson of my staff at 558-5000.

Sincerely,

John

John D. Perdue
State Treasurer

Post-it® Fax Note 7671	Date 8/15	# of pages ▶ 1
To Glenna	From Eleanor	
Co./Dept.	Co.	
Phone #	Phone #	
Fax # 347-4889	Fax #	

State of West Virginia

OFFICE OF THE STATE AUDITOR
CHARLESTON 25305

GLEN B. GAINER, III
STATE AUDITOR

July 15, 1997

RECEIVED
JUL 18 1997
Legislative Manager

Mr. Aaron Allred, Legislative Manager
Legislative Auditor's Office
Building 1, Room E-132
Charleston, West Virginia 25305

Dear Mr. Allred:

This is in reference to your correspondence of June 9, 1997 concerning interest being credited to the general revenue fund in place of other special revenue funds and the impact on general revenue if the interest were credited to these funds.

For Fiscal Year 1997, General Revenue was credited with $22.4 million of interest which was $2.3 million below estimates for the year. With 5.375% being the approximate return on General Revenue investments, the income for fiscal 1997 was based on an average invested balance of $416.7 million. With a general revenue average monthly balance of only $141.2 million, the General Revenue fund would have been credited $7.6 or $14.8 million less for the fiscal year.

Since the cash balances on the State's accounting system are not maintained on a daily basis but are on a current and month ending basis, the amount of interest not credited to each agency cannot be determined but the total is $14.8 million. This amount is the interest earned on all funds not invested by the agencies which includes all special revenue and trust funds.

The Treasurer's Office is currently working on a more detailed analysis of the investment funds and will provide additional information on this issue in the near future.

Sincerely,

Glen B. Gainer III
The Honorable Glen Gainer, III
State Auditor

James M. Teets
Secretary James Teets
Department of Administration

cc: The Honorable Earl Ray Tomblin
The Honorable Robert S. Kiss
The Honorable John Perdue