

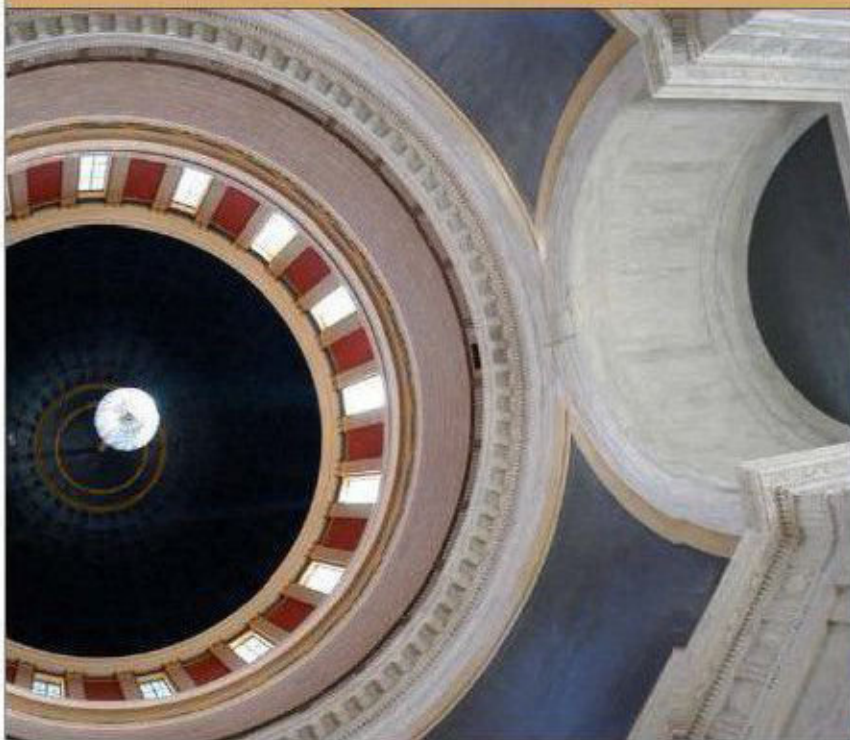
# LEGISLATIVE FINANCIAL COMPLIANCE INSPECTION

## Bakerton Volunteer Fire Department

FOR THE YEAR ENDING DECEMBER 31, 2010

### REPORT SUMMARY

- Lack of Supporting Documentation
- Non-Allowable Expenditures
- Commingled Funds



WEST VIRGINIA LEGISLATIVE AUDITOR  
POST AUDIT DIVISION



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### WEST VIRGINIA LEGISLATIVE AUDITOR LEGISLATIVE POST AUDIT DIVISION

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**WEST VIRGINIA LEGISLATURE**  
***Joint Committee on Government and Finance***

Stacy L. Sneed, CPA, CICA, Director  
Legislative Post Audit Division  
Building 1, Room W-329  
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September 20, 2012

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 12, Article 4, Section 14 as amended, we conducted a compliance inspection and review of the financial transactions and records of the Bakerton Volunteer Fire Department's state funds for the calendar year ended December 31, 2010. We conducted our review and compliance inspection based on the criteria set forth by the Legislative Post Audit Division.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stacy L. Sneed".

Stacy L. Sneed, CPA, CICA, Director  
Legislative Post Audit Division

SLS/rwa

**BAKERTON VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**BAKERTON VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**EXECUTIVE SUMMARY**

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<b>Bakerton VFD Jefferson County</b>	<b>December 31, 2010</b>
Lack of Supporting Documentation	\$18,997.13
Non-Allowable Expenditures	1,423.37
Commingled Funds	<u>14,000.00</u>
<b>Total Amount of Reimbursement</b>	<b>\$34,420.50</b>

On April 1, 2012 West Virginia State Police arrested the chief of the Bakerton Volunteer Fire Department James Johnson. He was arraigned on one felony charge of obtaining goods by false pretenses. Johnson allegedly used a Bakerton Fire Department check and credit card for personal purchases and other unauthorized expenses while serving as chief.<sup>1</sup>

We conducted an evaluation of the revenue and expenditure transactions, and other records of the Bakerton Volunteer Fire Department's state accounts for the year ending December 31, 2010. Our scope included determining instances of noncompliance with WV Code 8-15-8b. We currently are reviewing the revenues and expenditures of the department for the year ending December 31, 2011.

Due to the commingling of state funds and lack of accurate financial records we were unable to determine if all expenditures for the year ended December 31, 2010 were allowable and supported. However, based on the documents provided, we noted the following:

**FINDING 1 LACK OF SUPPORTING DOCUMENTATION:**

The Bakerton Volunteer Fire Department lacked proper supporting documentation for expenditures totaling \$18,997.13.

**Recommendation:**

We recommend the Board of Governors properly review and oversee the department's records. Also, the department should establish an audit committee to review department records for proper documentation and accuracy.

We further recommend the department examine the propriety of all transactions that lacked proper documentation, determine if the \$4,000 cash obtained for the purchase of the Jeep was used properly, obtain proper documentation for the payments made for the purchase of the Volvo pumper, obtain the cancelled or voided documentation for check numbers 1058, 1062, 1093, and reimburse their state account \$18,997.13.

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<sup>1</sup> 1 "Local fire chief arrested, charged" The Journal, April 4, 2012.

**FINDING 2 NON-ALLOWABLE EXPENDITURES:**

The Bakerton Volunteer Fire Department made \$1,423.37 in expenditures identified from state funds that were not allowed by WV Code 8-15 8b, as amended.

Recommendation:

We recommend the Board of Governors review, approve, and compare all expenditures with their budget on a monthly basis. The department should obtain sufficient knowledge of WV Code 8-15-8b to determine allowable expenditures under the code. We also recommend they comply with Publication TSD-320 and not pay consumer sales tax and reimburse their state account \$1,423.37.

**FINDING 3 COMMINGLED FUNDS:**

The Bakerton Volunteer Fire Department commingled State funds with funds from non State sources totaling \$14,000.00.

Recommendation:

We recommend the Bakerton VFD comply with WV Code 8-15-8b and cease commingling State funds with non State funds and maintain all state funds in a separate account. We also recommend they examine the propriety of fund transfers dated 10/1/2010 and 11/9/2010 and reimburse their state account \$14,000.00.

We further recommend the department engage an independent CPA to assist the department to evaluate all accounts and provide an audit of the department's finances.

**RESPONSES:**

The department agreed with all findings and recommendations.

**BAKERTON VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**INTRODUCTION**

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**POST AUDIT AUTHORITY**

The procedures were conducted pursuant to Chapter 12, Article 4, Section 14 of the West Virginia Code, which allows the Legislative Auditor to “assign an employee or employees to perform audits or reviews at the direction of the Legislative Auditor of the disbursement of state grant funds to volunteer fire departments.”

**BACKGROUND**

To provide additional revenue for the municipal firemen's pension and relief funds and for volunteer and part volunteer companies and departments, the West Virginia Legislature levied under Chapter 33, Article 3, Section 14d of the West Virginia Code, as amended in 2001, an additional premium tax equal to one percent of the taxable premiums collected for fire insurance and casualty insurance policies. Under this section of the Code, volunteer and part volunteer fire departments that are certified by the State Fire Marshal prior to each quarterly allocation are to receive 25 percent of the revenues generated by this premium tax.

In 1999, to provide additional revenue for the municipal fireman’s pension and relief funds and for volunteer and part volunteer companies and departments, the West Virginia Legislature levied under the provisions of Chapter 33, Article 12c, Section 9 of the West Virginia Code, as amended, a tax equal to four percent of the gross premiums and fees on excess line policies. These moneys are to be distributed in accordance with the provision of Chapter 33, Article 3, Section 14d, as amended.

The West Virginia Legislature again provided additional revenue for the volunteer and part volunteer fire departments by authorizing, under Chapter 33, Article 3, Section 33 of the West Virginia Code, as amended in 2001, a policy surcharge equal to one percent of the taxable premiums paid by policyholders of any fire insurance policy or casualty insurance policy. Under this section of the Code, 50 percent of the moneys collected are to be distributed to those volunteer and part volunteer fire departments and companies certified by the State Fire Marshal before each quarterly allocation.

Chapter 33, Article 3, Sections 14d and 33 provide that the volunteer fire departments receive distributions on an equal share basis and part volunteer fire departments receive a reduced amount based on the ratio of full-time paid firefighters who are members of the municipal firemen’s pension system to the total number of the members of the fire department. The moneys are to be distributed quarterly on the first day of the months of January, April, July and October of each year.

To receive these funds, the volunteer and part volunteer fire companies and departments must comply with the provisions of Chapter 8, Article 15, Section 8a of the West Virginia Code, as amended:

The Legislature placed restrictions on the use of these additional revenues by the volunteer fire departments under Chapter 8, Article 15, Section 8b of the West Virginia Code, as amended March 8, 2000, and again April 9, 2005.

Prior to the March 8, 2000 amendment, Chapter 8, Article 15, Section 8b did not allow Operating expenses as described in subsection (11) nor did the law prohibit the commingling of the funds with funds from other sources. Prior to the April 9, 2005 amendment, Chapter 8, Article 15, Section 8b did not allow Dues as described in subsection (12). On March 13, 2010, Chapter 8, Article 15, Section 8b was amended to include items (13) Workers' Compensation premiums, (14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighter; and (15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.

Chapter 12, Article 4, Section 14 of the West Virginia Code, as amended, requires an audit at the cost of the grantee, by an independent certified public accountant, of any person who receives State funds or grants in the amount of \$25,000 or more. The audit must be filed within two years of the end of the year in which the disbursement of the funds or grants occurred. The Legislature amended this section of the Code effective June 9, 1995, and again effective July 1, 2005 providing an alternative to an audit for volunteer fire departments. In lieu of an audit, volunteer fire departments may file a sworn statement of annual expenditures to the Legislative Auditor's Office on or before July 1, of each year. If the sworn statement of annual expenditures is not filed by the first day of July, the Legislative Auditor shall notify the State Treasurer who shall withhold any payment that would otherwise be distributed to the fire department.

Chapter 12, Article 4, Section 14 as amended March 8, 2000, and again April 9, 2005 provides that the Legislative Auditor may perform random audits of the volunteer fire departments. This section also requires that the volunteer fire department shall cooperate with the Legislative Auditor's Office in performing their duties under this section. If the Legislative Auditor determines a volunteer fire department is not cooperating, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the department until such time that the Legislative Auditor informs the Treasurer that the fire department has cooperated as required by this section.



**BAKERTON VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**OFFICERS AND STAFF**

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Tracy Smith .....President  
Jennisfer Whittington ..... Vice President  
Janice Beplay.....Secretary  
Joshua Beplay.....Treasurer  
Josh Smith ..... Fire Chief  
Quinton Davis .....Board Member

**BAKERTON VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

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**SCOPE**

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We conducted an evaluation of the revenue and expenditure transactions, and other records of the Bakerton Volunteer Fire Department's state accounts for the year ending December 31, 2010. Our scope included determining instances of noncompliance with Chapter 8, Article 15, Section 8b of the West Virginia code, and other applicable laws and regulations. The compliance inspection was conducted in accordance with criteria set forth by the Legislative Post Audit Division.

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**OBJECTIVES AND METHODOLOGIES**

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The objective of our report was to review expenditures from the Department's state fund to ensure all expenditures were allowable and supported and to report any unlawful expenditures that we find. Additionally, we were to examine the spending unit's financial transactions and records to evaluate its compliance with applicable State laws, rules and regulations.

Our sample of Departments to test was randomly selected by district, after determining a population of all Departments for which a report has not been issued.

This communication is intended solely for the information and use of the Post Audits Subcommittee, the members of the WV Legislature, and the Volunteer Fire Department. However, once presented to the Post Audits Subcommittee, this report is a matter of public record and its distribution is not limited.

Our reports are designed to assist the Post Audits Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving the operations of Volunteer Fire Departments. As a result, our reports generally do not address activities we reviewed that are functioning properly.

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**CONCLUSIONS**

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Based on our review, due to the commingling of state funds and lack of accurate financial records we were unable to determine if all expenditures were allowable and supported. However, based on the documents provided, we noted expenditures totaling \$18,997.13 that lacked proper documentation and expenditures totaling \$1,423.37 that were not allowable. In addition, we noted the Department commingled state funds with funds from non State sources totaling \$14,000.00. We recommend the department reimburse their state account a total of \$34,420.50 for items that lacked support, were not allowable and were commingled. We also noted the Board of Governors did not properly review and oversee the department's records.

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**EXIT CONFERENCE**

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We discussed this report with the Treasurer of the Bakerton Volunteer Fire Department on 9/21/2012. All findings and recommendations were reviewed and discussed. The department agreed with all findings and recommendations.

**BAKERTON VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

**FINDINGS**

**LACK OF SUPPORTING DOCUMENTATION:**

The Bakerton Volunteer Fire Department lacked proper supporting documentation for expenditures totaling \$18,977.13.

**CONDITION:**

We noted the department could not provide proper documentation for the following expenditures.

<u>CHECK #</u>	<u>CHECK DATE</u>	<u>PAYEE</u>	<u>L/S/D</u>	<u>Lack of support/Documentation Needed</u>
1057	12/16/2009	Voyage Fleet Systems Inc.	\$ 622.35	Itemize invoice, date, gallons, equip. ID
1058		Didn't provide a copy of check	n/a	Canceled or Voided check
1059	12/17/2009	CARQUEST	799.11	Itemized invoices
1061	12/17/2009	Southern States	1,030.36	Itemized invoices
1062		Didn't provide a copy of check	n/a	Canceled or Voided check
1064	2/3/2010	Voyage Fleet Systems Inc.	470.87	Itemize invoice, date, gallons, equip. ID
1068	3/10/2010	Emergency Moblie Services	719.25	Itemized invoices
1073	5/3/2010	Voyage Fleet Systems Inc.	787.75	Itemize invoice, date, gallons, equip. ID
1074	6/2/2010	Witmer Public Safety Group	50.00	Itemized invoice for \$50.00
1075	6/2/2010	Farmplan	1,772.13	Itemize invoices
1077	7/1/2010	Middleway fire dept	1,000.00	Itemize invoices
1080	7/1/2010	Voyage Fleet Systems Inc.	1,418.22	Itemize invoice, date, gallons, equip. ID
1084	8/24/2010	Middleway fire dept	2,000.00	Itemized invoices
No number	10/1/2010	Cash	4,000.00	itemized invoice
1093		Didn't provide a copy of check	n/a	Canceled or Voided check
1094	11/11/2010	CARQUEST	474.92	Itemized invoices
1095	11/19/2010	Middleway fire dept	2,000.00	Itemized invoices
1098	12/8/2010	Voyage Fleet Systems Inc.	<u>1,852.17</u>	Itemize invoice, date, gallons, equip. ID
		<b>Total</b>	<b>\$18,997.13</b>	

According to the department and a letter from MBV bank, the department purchased a 1968 Jeep in October of 2010. The chief purchased a cashier's check, per above check dated 10/1/2010, in the amount of \$4,000.00 but returned the check for cash on 10/01/2010 to be used for the purchase as the seller would not accept the bank check. The transaction is supported by a copy of the cashier's check, bank statement and bill of sale however we were unable to determine if the cash was used to purchase the Jeep. We recommend the department further investigate the nature of this transaction.

Also according to the department, they purchased a 1989 Volvo pumper "engine 7-1" for a total price of \$7,000.00 from Middleway Volunteer Fire Department. Payments of \$1,000.00, \$2,000.00 and \$2,000.00 were made by the above checks 1077, 1084 and 1095 respectably. The department could not

provide a receipt for these payments. The Volvo pumper is on the equipment list provided by the department. We went to the department and verified its VIN number and documented it with a picture. The department should obtain documentation for each payment.

We noted the above check numbers 1058, 1062, and 1093 were not supported by a cancelled or voided check. Without the documentation of a cancelled or voided check we were unable determine if these checks were properly voided.

**CRITERION:**

WV Code 8-15-8b, as amended, states in part:

“Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section. Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, may not be commingled with funds received from any other source.”

**CAUSE:**

The Board of Governors did not properly review and oversee the department’s records. Also the department did not have an audit committee to review department records for proper documentation.

**EFFECT:**

There is a higher risk of fraud when expenditures lack proper supporting documentation. Due to the lack of proper supporting documentation, we were unable to determine if these expenditures were allowable.

**RECOMMENDATION:**

We recommend the Board of Governors properly review and oversee the department’s records. Also, the department should establish an audit committee to review department records for proper documentation and accuracy.

We further recommend the Bakerton VFD examine the propriety of all transactions that lacked proper documentation, determine if the \$4,000 cash obtained for the purchase of the Jeep was used properly, obtain proper documentation for the payments made for the purchase of the Volvo pumper, obtain the cancelled or voided documentation for check numbers 1058, 1062, 1093, and reimburse their state account \$18,997.13.

**FINDING 2 NON-ALLOWABLE EXPENDITURES:**

The Bakerton Volunteer Fire Department made \$1,423.37 in expenditures identified from state funds that were not allowed by WV Code 8-15-8b of the West Virginia Code, as amended.

**CONDITION:**

We noted the fire department made the following unallowable expenditures identified from State funds:

<u>CHECK NUMBER</u>	<u>INVOICE DATE</u>	<u>INVOICE NUMBER</u>	<u>INVOICE DATE</u>	<u>PAYEE</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
1085	8/25/2010	N/A	8/16/2010	Stewarts Mens Wear	\$1,179.60	Dress Uniforms
92	10/13/2010	N/A	N/A	Holsinger's Meat Market	201.11	Food
1100	12/8/2010	Various	Various	Shenandoah Sales	<u>42.66</u>	Sales tax
				<b>Total</b>	<b>\$1,423.37</b>	

**CRITERION:**

WV Code 8-15-8b, as amended, states in part:

“Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section. Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, may not be commingled with funds received from any other source.”

Publication TSD-320 of the West Virginia Tax Department, states in part:

“Certain nonprofit organizations purchasing tangible personal property or taxable services to be used or consumed in the organization’s nonprofit activities **are exempt** from payment of the consumers sales tax or use tax on those purchases.”

**CAUSE:**

The Board of Governors did not properly review and oversee the department’s records. The Board of Governors did not review and approve all expenditures on a monthly basis. Also the department did not have sufficient knowledge of WV Code 8-15-8b to determine allowable expenditures under the code.

**EFFECT:**

There is a higher risk of fraud or error when the Board of Governors does not properly review or oversee the department’s records. Due to unallowable expenditures, the department may have less funding available for expenditures required for effective and efficient fire protection services.

**RECOMMENDATION:**

We recommend the Board of Governors properly review and oversee the department's records. Also, the Board of Governors should review, approve, and compare all expenditures with their budget on a monthly basis. The department should obtain sufficient knowledge of WV Code 8-15-8b to determine allowable expenditures under the Code. We also recommend they comply with Publication TSD-320 and not pay consumer sales tax and reimburse their state account \$1,423.37.

**FINDING 3 COMMINGLED FUNDS:**

The Bakerton Volunteer Fire Department commingled State funds with funds from non State sources totaling \$14,000.00.

**CONDITION:**

We noted debit memos of \$4,000.00 and \$10,000.00 dated 10/1/2010 and 11/9/2010 respectively for fund transfers from their state account to their non-state account. We obtained copies of the debit memos, deposit memos, and bank statements for each account directly from their bank. The transfer of state funds to a non-state account is not allowed under WV Code 8-15-8b. The department should review the nature and purpose of these transfers.

**CRITERION:**

WV Code 8-15-8b, as amended, states in part:

“Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section. Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, **may not be commingled with funds received from any other source.” (Emphasis Added)**

**CAUSE:**

According to the current chief, the department was not aware that transferring state funds to their non state account was not in compliance with WV Code 8-15-8b, as amended.

**EFFECT:**

When State and non State funds are commingled, we are unable to determine if all expenditures made from state funds were allowable and/or properly documented.

**RECOMMENDATION:**

We recommend the Bakerton VFD comply with WV Code 8-15-8b and cease commingling State funds with non State funds and maintain all state funds in a separate account. We also recommend they examine the propriety of fund transfers dated 10/1/2010 and 11/9/2010 and reimburse their state account \$14,000.00.



**BAKERTON VOLUNTEER FIRE DEPARTMENT**  
**January 1, 2010 – December 31, 2010**

**SUPPLEMENTAL INFORMATION**  
**STATEMENT OF EXPENDITURES YEAR ENDED DECEMBER 31, 2010**

D	B	A	C	
<u>Authorizing W.Va Code</u>	<u>AUDIT</u>	<u>VFD</u>	<u>DIFFERENCES</u>	
Chapter 8, Article 15, Section 8b(1)	\$ 556.50	\$ 5,276.65	(\$4,720.15)	b
Chapter 8, Article 15, Section 8b(2)	1,502.82	13,100.00	(11,597.18)	b
Chapter 8, Article 15, Section 8b(3)	375.00	4,946.33	(4,571.33)	b
Chapter 8, Article 15, Section 8b(4)	4,893.50	22,052.40	(17,158.90)	b
Chapter 8, Article 15, Section 8b(5)	6,055.83	9,352.05	(3,296.22)	b
Chapter 8, Article 15, Section 8b(6)	0.00	34,784.30	(34,784.30)	b
Chapter 8, Article 15, Section 8b(7)	108.43	22,315.67	(22,207.24)	b
Chapter 8, Article 15, Section 8b(8)	30.00	0.00	30.00	b
Chapter 8, Article 15, Section 8b(9)	0.00	0.00	0.00	
Chapter 8, Article 15, Section 8b(10)	0.00	9,889.87	(9,889.87)	b
Chapter 8, Article 15, Section 8b(11)	0.00	16,207.82	(16,207.82)	b
Chapter 8, Article 15, Section 8b(12)	100.00	0.00	100.00	b
Chapter 8, Article 15, Section 8b(13)	430.50	0.00	430.50	b
Chapter 8, Article 15, Section 8b(14)	0.00	0.00	0.00	
Chapter 8, Article 15, Section 8b(15)	0.00	0.00	0.00	
Total Disbursements For Year Ended December 31, 2010	\$14,052.58	\$137,925.09	(\$123,872.51)	a

a = Difference between total audited distributions and financial statement distributions:

See file: <b>Finding 1 Bakerton 2010 Lack of support.docx</b>	-\$18,997.13
See file: <b>Finding 2 Bakerton 2010 Unallowable.docx</b>	-\$1,423.37
See file: <b>Finding 3 Bakerton 2010 Commingled.docx</b>	-\$14,000.00

Financial statement (line 5) shows \$137,925.09 total distributions, less actual bank statement distribution were \$48,473.08

-\$89,452.01

Net Total

-\$123,872.51

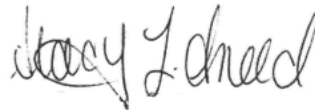
b = The department did not provide a ledger to support their line item totals from their financial statement therefore we are unable to determine the difference between the audited line items and the line items noted on the financial statement.

**STATE OF WEST VIRGINIA**

**OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:**

I, Stacy L. Sneed, CPA, CICA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 3<sup>rd</sup> day of October 2012.



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Stacy L. Sneed, CPA, CICA, Director  
Legislative Post Audit Division

Notification of when the report was released and the location of the report on our website was sent to the Secretary of the Department of Administration to be filed as a public record. Report release notifications were also sent to the Governor; Attorney General; State Auditor; and State Fire Marshal. Copies forwarded to the Bakerton Volunteer Fire Department; Prosecuting Attorney, Jefferson County; County Clerk, Jefferson County.