

**STATE OF WEST VIRGINIA**

**PRELIMINARY PERFORMANCE REVIEW OF THE**

**State Rail Authority**

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**The State Rail Authority's  
Operating Losses have Increased**

**Train Derailments Suffered by  
the Authority, which cost the State  
over \$100,000 Annually,  
have been Substantially Reduced  
Since FY 1997, but still  
Present a Serious Safety Risk**

**The State Rail Authority does not  
have a Proactive Statewide Focus  
to Promote Rail Services**

**Updated Information on Issues from  
the 1999 Preliminary Performance Evaluation**

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**OFFICE OF LEGISLATIVE AUDITOR  
Performance Evaluation and Research Division  
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**December 2001**

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John Sylvia  
Director

December 9, 2001

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
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The Honorable Vicki V. Douglas  
House of Delegates  
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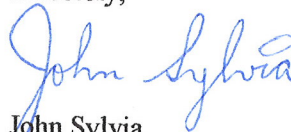
Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a *Preliminary Performance Review of the State Rail Authority*, which will be presented to the Joint Committee on Government Operations on Sunday, December 9, 2001. The issues covered herein are "The State Rail Authority's Operating Losses have Increased;" "Train Derailments Suffered by the Authority, which cost the State over \$100,000 Annually, have been Substantially Reduced since FY 1997, but still Present a Serious Safety Risk;" "The State Rail Authority does not have a Proactive Statewide Focus to Promote Rail Services;" and "Updated Information on Issues from the 1999 Preliminary Performance Evaluation."

We transmitted a draft copy of the report to the State Rail Authority on October 12, 2001. We conducted an Exit Conference with the Authority Division via telephone on November 2, 2001. We received the agency response on November 28, 2001.

Let me know if you have any questions.

Sincerely,

  
John Sylvia

JS/wsc



## TABLE OF CONTENTS

Executive Summary .....	3
Objective, Scope and Methodology .....	9
Background .....	11
<b>Issue 1:</b> The State Rail Authority's Operating Losses have Increased. ....	15
<b>Issue 2:</b> Train Derailments Suffered by the Authority, which cost the State over \$100,000 Annually, have been Substantially Reduced Since FY 1997, but still Present a Serious Safety Risk .....	29
<b>Issue 3:</b> The State Rail Authority does not Perform a Statewide Proactive Function for the Promotion of Rail Service as Authorized by Statute. ....	33
<b>Issue 4:</b> Updated Information on Issues from the 1999 Preliminary Performance Evaluation .....	

## LIST OF TABLES

<b>Table 1:</b> Freight Railroads in West Virginia 1999 .....	12
<b>Table 2:</b> Freight Railroad Traffic in West Virginia .....	13
<b>Table 3:</b> State Rail Authority Operating Revenues and State Operating Assistance .....	16
<b>Table 4:</b> Breakdown of Operating Expenses Between Current and Depreciation Expenses .....	16
<b>Table 5:</b> Total Capital Expenditures for Years Prior to 1994 and FY 1994 to FY 2000 .....	17
<b>Table 6:</b> Operating Losses Divided Between South Branch Valley Railroad and West Virginia Central Railroad .....	18
<b>Table 7:</b> West Virginia Central Railroad Activity Measures .....	19

<b>Table 8:</b>	South Branch Valley Railroad Freight Traffic .....	22
<b>Table 9:</b>	Unemployment Rate in Eastern West Virginia Poultry-Producing Counties .....	23
<b>Table 10:</b>	Number of Chickens Sold in Eastern West Virginia Poultry-Producing Counties .....	24
<b>Table 11:</b>	Value of Poultry Sold in West Virginia Poultry-Producing Counties .....	24
<b>Table 12:</b>	Assessed Valuations of Personal Property Taxes & Real Estate Taxes Levied in West Virginia Poultry-Producing Counties .....	25
<b>Table 13:</b>	South Branch Valley Railroad Derailment Costs .....	29
<b>Table 14:</b>	Total State Rail Authority Insurance Losses Paid by BRIM .....	31
<b>Table 15:</b>	LRSA and LRFA Grant Payments to the State Rail Authority .....	35
<b>Appendix A:</b>	Transmittal Letter to Agency .....	39
<b>Appendix B:</b>	Agency Response .....	43



## Executive Summary

### **Issue 1: The State Rail Authority's Operating Losses have Increased.**

The State Rail Authority was created to facilitate the continued operation of essential railroads in the state. This function was to be carried out in a way that promoted efficiency and safety. The Authority presently operates two rail lines, the West Virginia Central Railroad and the South Branch Valley Railroad. The Legislative Auditor has concerns about the Authority's increasing losses and the number of derailments on the Authority's tracks which have a negative financial impact on the Authority (see Issue Area 2).

**The Legislative Auditor recognizes that the poultry industry in the Eastern Panhandle of the State provides a compelling economic justification for continued rail service on the South Branch Valley Railroad.** Nevertheless, the Authority is experiencing increasing losses on SBVR. When the losses include insurance losses, the annual loss is nearly \$1.5 million. Any program of the state has the implied objective to operate at the lowest cost to the taxpayers of the state.

**The Legislative Auditor does question the economic justification of the West Virginia Central Railroad or continuing the current contractual arrangement in which the state receives little revenue and incurs significant expenses.** From an economic standpoint, this rail line does not appear to be essential. The Legislative Auditor recommends that the Authority justify this project by providing a comprehensive cost-benefit analysis to the Joint Committee on Government Operations, and justification as to why the Authority considers this project essential.

The Legislative Auditor's major concern with the State Railroad Authority is its increasing annual losses. **While presently the economic benefits to the State more than cover the operating losses of the Authority, if the losses continue to grow at the present rate they could become substantial.** Thus, the Authority should make every effort to make the SBVR a profitable operation, including efforts to increase rail service customers and attempts to increase the efficiency of its operations. The Legislative Auditor recommends that State Railroad Authority report to the Legislature in 2003 the effectiveness of its attempts to begin using 90 car trains to haul grain to the Pilgrim's Pride facility and that both the Authority and the Legislature should consider whether the employees of the State Railroad Authority should be offered some type of financial benefit program which would pay bonuses to the Authority's employees for reducing or eliminating the Authority's losses while also reducing the number of derailments on the SBVR.

### **Recommendation 1:**

*The State Rail Authority should provide an analysis to the Joint Committee on Government Operations that demonstrates the economic benefit is greater than the cost to the State of continuing operations on the West Virginia Central Railroad.*

## **Recommendation 2:**

*The State Rail Authority should report to the Joint Committee on Government Operations in January of 2003 whether the Authority's goal to begin running 90 car trains to the Pilgrim's Pride facility with a 24-hour turnaround has been achieved and, if so, whether this has increased the Authority's efficiency in operating the SBVR.*

## **Recommendation 3:**

*The State Rail Authority should consider proposing to the Legislature a financial benefit plan which would reward the Authority's employees for reducing or eliminating the Authority's losses while also reducing the number of derailments on the South Branch Valley Railroad.*

## **Recommendation 4:**

*The Authority should have its financial statements present total losses as well as dividing losses between each rail project. If losses were to increase substantially for the SBVR, the Authority should conduct appropriate research to determine the cost-benefit to the state and examine alternative modes of transportation for SBVR customers to determine if the companies served by SBVR can operate profitably under alternative transportation.*

## **Issue 2: Train Derailments Suffered by the Authority, which cost the State over \$100,000 Annually, have been Substantially Reduced since FY 1997, but still Present a Serious Safety Risk.**

The Authority experienced derailments on its railroads each year from 1996 to 2000. Derailments have resulted in considerable costs to the State, particularly in the form of costs for coverage provided by the Board of Risk and Insurance Management (BRIM). It should be noted that insurance losses have steadily decreased since 1998. Table 13 lists derailments on the South Branch Valley Railroad from 1996 to 2000. Total derailment costs are broken down according to those paid by BRIM and those paid by the SRA. This railroad is directly operated by the Authority. The Authority does not complete investigation reports on such incidents and, therefore, no information was available to determine the causes of derailments for this report. The Durbin and Greenbrier Valley Railroad is responsible for any costs associated with derailments on the West Virginia Central Railroad but has reported no derailments since it began operating in 1998.

## **Issue 3: The State Rail Authority does not Perform a Statewide Proactive Function for the Promotion of Rail Service as Authorized by Statute.**

The Authority is mandated to promote the state's rail services. The Authority developed a statewide proactive plan that identified the need to maintain current knowledge of the status and use

(and changes in use) of rail lines throughout the state with the intent of strengthening rail services where needed and anticipating the abandonment of rail lines. One form of action included an effort to obtain new rail service customers on underutilized lines. The Plan was developed in response to federal requirements in order to receive grants under the federal Local Rail Freight Assistance program. Since the Authority has not received any regular federal funding since 1995, the Authority decided not to update the State Rail Plan. As a result, the Authority largely confines its activities to the two rail lines that it operates.

The lack of a statewide proactive focus by the Authority indicates that it will likely respond to the threat of abandonment of essential rail lines at the time the company requests permission from the federal government to abandon a line. At that point it may be too costly for the Authority to prevent the loss of rail service. A proactive function will do more to prevent the loss of essential rail service by taking action to make rail service healthier in the state, and by anticipating the problem before it becomes too serious or costly to prevent the loss. **The lack of a statewide proactive focus increases the risk of losing essential rail service.**

### **Recommendation 5:**

*The State Rail Authority should update and implement a statewide proactive plan with the intent to:*

- 1) *anticipate rail abandonments;*
- 2) *react to unanticipated rail abandonments;*
- 3) *identify struggling rail lines that can be strengthened, including the effort to obtain new rail service customers for underutilized rail lines;*
- 4) *obtain and maintain knowledge of the status of rail lines, the use and changes in the use of rail line services, and possibly the financial conditions of railroad companies;*
- 5) *perform other activities necessary to promote and support a strong, safe, efficient and adequate railroad industry as authorized by statute.*

## **Issue 4: Updated Information on Issues from the 1999 Preliminary Performance Evaluation.**

***Issue Area 1: Most employees of the State Rail Authority are members of the Public Employees Retirement System (PERS) and the U.S. Railroad Retirement Board's system and may retire with benefits exceeding 100% of final pay.***

This issue was addressed by a 2000 amendment to WVC §5-10-15. Paragraph (b) lists persons excluded from membership in PERS. The following language addressed this issue:

*...That membership of the retirement system does not include any person who becomes a member of the federal railroad retirement act on or after the first day of July, two thousand.*

***Issue Area 2: Payments to board members for travel and compensation may be excessive.***

Since the release of the June 1999 report, two members of the Authority's Board of Directors have resigned and a third was not reappointed. The members who resigned included individuals who may have received excessive compensation. Furthermore, the Authority filed a proposed procedural rule, 172CSR1, on June 19, 2001 that specified when members are eligible for compensation.

*4.11. Board of Director members, except for the Chairman, shall be entitled to reimbursement for travel expenses to and from Board of Directors meetings and during official duties assigned by majority vote of the Board of Directors or authorized by the Chairman. Reimbursement of meals, lodging and other legitimate expenses shall be in accordance with W.Va. Code §4-2A-7.*

*4.12. Board of Director members, except for the Chairman, shall receive the same compensation as is paid to members of the West Virginia Legislature for their interim duties in accordance to W.Va. Code §6-9A.*

***Issue Area 3: Committee meetings of SRA are in violation of the Open Meetings Law.***

The Legislative Auditor's Office has confirmed with the Secretary of State's Office that the Authority has filed meeting notices in a timely fashion since the June 1999 report.

***Issue Area 4: State Rail Authority bylaws out of date.***

Since the release of the June 1999 report, the Authority's bylaws have been replaced with amendments to the West Virginia Code and are no longer updated.

***Issue Area 5: Annual Election of officers not occurring as required by statute.***

On June 19, 2001, the Authority filed a proposed procedural rule, 172CSR1, with the Secretary of State's Office that addressed:

*...the conduct of meetings, the organization, the compensation and reimbursement, the election of officers, the appointment of an Executive Director and the duties of the Board of Directors of the West Virginia State Rail Authority.*

The new procedural rule if followed should correct the problems the Board has had with the selection of officers.



## **Objective, Scope and Methodology**

This is a Preliminary Performance Review of the West Virginia State Rail Authority as required by WVC §4-10-5. The State Rail Authority is responsible for the “establishment, funding, construction, reconstruction, acquisition, repair, replacement, operation and maintenance of railroad projects” as well as other activities that promote efficiency and safety within the rail industry of the State.

### **Objective**

The objective of this review is to examine the following issues:

- 1) Does the Authority operate efficiently?
- 2) Does the Authority operate safely?
- 3) Does the Authority fulfill the functions for which it was created?

### **Scope**

The scope of this review is from the creation of the Authority in 1975 to the end of fiscal year 2001.

### **Methodology**

The Legislative Auditor’s Office obtained data from the Authority that focused on the period since FY 1978 when the Authority began operating the South Branch Valley Railroad. Other data focused on the period since FY 1997 when the Authority purchased the West Virginia Central Railroad. These data include financial information and activity measures for both railroads and served as a means to measure the Authority’s efficiency.

The West Virginia Board of Risk and Insurance Management (BRIM) provided data on insurance payments made by the State for accidents resulting from the Authority’s operations. This information provided a measure of both safety and efficiency.

The Authority provided data on federal grant funding that it has received since its creation. The Authority also provided information on its various activities related to its goal of promoting the rail industry. These data were utilized to determine the Authority’s activity level and its effectiveness in conducting the duties assigned to it at the time of its creation.

Other data collected included information from the Association of American Railroads and the Federal Railroad Administration. This information focused primarily on the history of the railroad industry and its regulatory environment.





## Background

The West Virginia Railroad Maintenance Authority was created in 1975. A 1994 amendment re-designated it as the West Virginia State Rail Authority. In 1989, the Authority was reorganized under the Department of Transportation. The Authority, generally speaking, is empowered to oversee and prepare plans, as well as provide funds and coordination for the operation of rail transportation in the State. It has the power to make loans and grants to governmental agencies and persons for carrying out railroad projects. Railroad projects may also be operated by the Authority itself. The Authority owns two railroads: The West Virginia Central Railroad and the South Branch Valley Railroad. The Authority may also issue railroad maintenance bonds and notes. The Authority may own, acquire, and sell property. It may receive grants for railroad projects or research and development from any state or federal agency.

The Authority owns other railroad projects including the 2.9-mile Wheeling Terminal Railroad that connects CSXT with a large industrial facility. Both the facility and the rail line are not currently in use. It also participates in the Maryland Rail Commuter (MARC) service to Washington, D.C., by maintaining three stations in the Eastern Panhandle.

The Authority consists of seven members. The Secretary of the Department of Transportation was made the chairman by a 1999 amendment. Previously, the Secretary was an ex officio member. The other six members are appointed by the Governor, by and with the advice and consent of the Senate, for a term of six years. No more than three of the appointed members shall be members of the same political party. Members may be appointed to serve additional terms.

The Authority also operates the Rails to Trails program, *“the purpose of which is to acquire or assist with the acquisition of, and to develop or assist with the development of, abandoned railroad rights-of-way for interim use as public non-motorized recreational trails.”* A 1995 amendment to the West Virginia Code continued the West Virginia Rails to Trails Program within the State Rail Authority instead of within the Division of Tourism and Parks, as it was previously. The Authority has certain powers and duties associated with this program. The Authority is authorized to enter into agreements on behalf of the State *“to acquire an interest in any abandoned railroad right-of-way, to develop, maintain, or promote rail trails.”* The Authority evaluates abandoned railroad rights-of-way to identify suitable property for rail trails. The Division of Natural Resources actually operates rail trails while the property remains unused for its original purpose.

## Railroad Service in West Virginia

During 1999, West Virginia ranked 30<sup>th</sup> in the United States with respect to the number of rail miles and 12<sup>th</sup> in rail traffic within the State. According to 1999 data from the Association of American Railroads, West Virginia had nine freight railroads. Two of these were owned by the Authority (see Table 1). While the State had 2,681 miles of railroad in operation, less than 200 miles were operated by railroads owned by the Authority.

<b>Table 1 Freight Railroads in West Virginia 1999</b>	
<b>Type of Railroad</b>	<b>Miles of Railroad Operated in the State</b>
<b>Class I Railroads</b>	
CSX Transportation	1,549
Norfolk Southern Corporation	842
<b>Local Railroads</b>	
Beech Mountain Railroad Company	8
Elk River Railroad, Incorporated	62
South Branch Valley Railroad*	52
West Virginia Central*	131
Winchester & Western Railroad	24
<b>Switching and Terminal Railroads</b>	
Little Kanawha River Rail	3
<b>Regional Railroads</b>	
Wheeling & Lake Erie Railway Company	10
<b>Total Rail Miles</b>	<b>2,681</b>
* Owned by State Rail Authority	

Table 2 illustrates the categories of freight carried by railroads in West Virginia. Coal and other industrial freight such as metals, chemicals and petroleum account for the majority of freight traffic in the State. Other types of freight account for a small fraction of traffic originating and terminating in West Virginia. This category includes freight carried by the railroads owned by the Authority.

**Table 2**  
**Freight Railroad Traffic in West Virginia**

Tons Originated in West Virginia 1999			Tons Terminated in West Virginia 1999		
Freight Type	Tons	Percentage	Freight Type	Tons	Percentage
Coal	115,891,838	93%	Coal	26,322,908	74%
Nonmetallic Minerals	2,675,840	2%	Metallic Ores	2,625,797	7%
Metallic Ores	2,600,694	2%	Chemicals	2,202,880	6%
Chemicals	1,872,152	2%	Primary Metal Products	1,703,119	5%
Glass and Stone	460,664	0%	Petroleum	1,073,119	3%
All Other	1,002,032	1%	All Other	1,755,076	5%
Total	124,503,220	100%	Total	35,683,224	100%

Governmental entities in other states also own railroads although the operation of railroads by state employees as with the South Branch Valley Railroad is unique to West Virginia. Publically-owned railroads are generally operated by private contractors in other States. Pennsylvania owns no less than ten rail lines but is currently seeking to sell them. Another example is the South Carolina Port Authority, which owns tracks servicing port facilities. A final example is the State of Michigan, which owned 714.3 miles of rail line for operation and 27 miles held for future use as railbanks in 1997. The State contracts with private contractors to provide service on the six operational rail lines it owns. A 1998 study by the Federal Railroad Administration identified approximately 100 publically-owned railroads across the country.

### **Deregulation of the Rail Industry**

Major changes took place in the regulatory environment of the rail industry, both before and since the Authority was created in 1978. The changes were characterized by a continuous movement towards deregulation. Prior to the development of motor carriers, branch rail lines were an important part of the nation's transportation network. Truck competition led to the loss of much freight business except for items such as agricultural products. According to 49 USC Sec. 10903, railroads have to petition the Surface Transportation Board (the Interstate Commerce Commission until 1995) to abandon rail lines. Shippers and communities often protested such moves and rulings against abandonment frequently resulted. The financial burden of maintaining unprofitable freight and passenger service became difficult for railroads to bear. This became clear in 1970 when the

Penn Central Railroad ran out of money and created the largest bankruptcy case in U.S. history. Other railroads were experiencing similar financial problems. Penn Central's bankruptcy trustees determined that the company needed to abandon 10,000 miles of track. Abandonment became easier as a result. Five major developments resulted from the governmental reaction to the Penn Central crisis.

- 1) Amtrack
- 2) Conrail
- 3) Ease of branch line abandonment
- 4) Shortline spinoffs from larger railroads
- 5) Movement towards railroad deregulation

Two other Class One railroad crises: the liquidations of the Rock Island Line and most of the Milwaukee Railroad in 1980 made more miles of track available for shortline operators. Other important legislation included the Railroad Revitalization and Regulatory Reform Act of 1976 and the Staggers Act of 1980, which gave railroads more freedom in setting their rates. The trend towards deregulation made the development of larger numbers of shortline railroads, such as those owned and operated by the State Rail Authority, possible.

## **Issue 1: The State Rail Authority's Operating Losses have Increased.**

The State Rail Authority was created in 1975 to qualify the state for federal rail services continuation subsidies that would be used to help maintain essential rail service. Part of this function involved establishing a State Plan that would be pro-active in preserving needed rail lines by monitoring rail lines that were threatened with abandonment, identifying rail lines that needed financial assistance, and identifying abandoned rail lines that should be maintained for potential future use. In carrying out this function, the Authority is to promote safe and efficient rail services. **This report indicates that the Authority's operating losses have increased, partially caused by safety issues, which are being addressed through capital improvements (see Issue Area 2).**

1. The Authority's two rail lines annual operating loss has grown from \$286,593 in fiscal year 1994 to \$1,163,717 in fiscal year 2000.
2. The Authority has suffered a total of nine derailments from fiscal year 1996 through fiscal year 2000; at least one in each of the last four years, two in 1997, three in 1998 and two in 2000. The West Virginia Board of Risk and Insurance Management paid out over \$1.5 million in payments associated with derailments for these years. This further adds to the cost the state bears to operate these rail lines. However, the total State Rail Authority insurance losses paid by BRIM have substantially decreased from \$480,000 in FY 1997 to \$125,000 in FY 2001 (see Issue 2).

The State Rail Authority consistently operates at a loss and the losses are growing. Table 3 illustrates the Authority's operating revenues and operating expenses subsidized by the State for FY 1994-2000. The loss at which the Authority operates currently costs the State over one million dollars annually in operating assistance. The overall trend has been towards increasing operating losses, with a major increase from \$624,002 in FY 1996 to \$940,797 in FY 1997. An important change has been the level of operating assistance received by the Authority from the State. While it remained approximately \$400,000-500,000 for the first five years examined, it increased to \$858,408 in FY 1998. At the same time, the Authority's total operating revenues actually fell, and are currently somewhat lower than at any time from FY 1994 to FY 1997. Total operating revenues increased in FY 2000 after reaching a low of \$1,579,579 in FY 1998. Table 4 shows the breakdown of operating expenses between current and depreciation expenses. Table 5 shows the total capital expenditures from prior to FY 1994 through FY 2000

When the operating losses identified in Table 3 are divided between the two primary rail lines operated by the Authority (West Virginia Central, and South Branch Valley), it shows that both rail lines operate at a loss (see Table 6). South Branch Valley Railroad (SBVR) has the largest losses and they have increased significantly from \$286,593 in FY 1994 to \$1,003,380 in FY 2000. This does not include the insurance costs incurred by the West Virginia Board of Risk and Insurance Management for derailments and other insurance losses from SBVR (see Issue 2). Insurance losses average about two hundred thousand a year.

<b>Table 3</b>							
<b>State Rail Authority Operating Revenues and State Operating Assistance</b>							
	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
Freight Revenue	\$1,663,073	\$1,782,240	\$1,714,257	\$1,731,581	\$1,514,677	\$1,565,686	\$1,610,476
Misc. Revenue	\$135,097	\$70,601	\$55,945	\$23,925	\$64,902	\$39,453	\$92,697
Total Revenue	\$1,798,170	\$1,852,841	\$1,770,202	\$1,755,506	\$1,579,579	\$1,605,139	\$1,703,173
Operating Expenses	\$2,084,763	\$2,498,985	\$2,394,204	\$2,696,303	\$2,389,366	\$2,791,728	\$2,866,890
Operating Loss	\$286,593	\$646,144	\$624,002	\$940,797	\$809,787	\$1,186,589	\$1,163,717
State of West Virginia Operating Assistance	\$550,319	\$434,812	\$371,019	\$482,112	\$858,408	\$1,140,505	\$1,090,361

*Source: Gibbons & Kawash, Audited Financial Statements West Virginia State Rail Authority, 1994 -2000*

<b>Table 4</b>							
<b>Breakdown of Operating Expenses Between Current and Depreciation Expenses</b>							
	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
Current Expenses	\$1,232,372	\$1,646,908	\$1,538,915	\$1,818,784	\$1,329,417	\$1,684,637	\$1,733,968
Depreciation Expenses	\$852,391	\$852,077	\$855,289	\$877,519	\$1,059,949	\$1,107,091	\$1,132,922
Total Operating Expenses	\$2,084,763	\$2,498,985	\$2,394,204	\$2,696,303	\$2,389,366	\$2,791,728	\$2,866,890

*Source: Gibbons & Kawash, Audited Financial Statements West Virginia State Rail Authority, 1994 -2000. Depreciation expenses from the Financial Division of the West Virginia Department of Transportation.*

<b>Table 5</b>	
<b>Total Capital Expenditures</b>	
<b>for Years Prior to 1994 and FY 1994 to FY 2000</b>	
Fiscal Year	Total Capital Expenditures
FY 1994 and Prior Years*	\$31,030,883
FY 1995	\$327,832
FY 1996	\$1,654,163
FY 1997	\$950,450
FY 1998	\$6,975,843
FY 1999	\$883,315
FY 2000	\$729,936
Total	\$42,552,425
<p><i>* Capital Expenditures for FY 1994 include FY 1994 and prior years dating back to the original purchase of South Branch Valley Railroad.</i></p> <p><i>Source: Gibbons &amp; Kawash, Audited Financial Statements West Virginia State Rail Authority, 1994 -2000. Depreciation expenses and prior year capital expenditure total from the Financial Division of the West Virginia Department of Transportation.</i></p>	

The Authority's financial statements do not divide losses between its major rail lines. Table 4 was calculated by the Finance Division of the Department of Transportation at the request of the Legislative Auditor. In order to assist it to operate the railroads more as a business, the Authority should have its financial statements divided between rail lines. The state should know the cost of each rail project in order to make ongoing determination for the justification of continuing these rail projects.

**Table 6**  
**Operating Losses Divided Between**  
**South Branch Valley Railroad, and West Virginia Central Railroad**

	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000
South Branch Valley	\$286,593	\$646,144	\$624,002	\$940,797	\$701,375	\$1,035,286	\$1,003,380
West Virginia Central					\$108,411	\$151,302	\$160,336
Total Operating Loss	\$286,593	\$646,144	\$624,002	\$940,797	\$809,787	\$1,186,589	\$1,163,717

*Source: Derived through the Depreciation Expense Schedule for West Virginia Central Railroad as provided by the Department of Transportation, Finance Division.*

### **The West Virginia Central Railroad Has Limited Economic Benefit**

The Authority purchased the West Virginia Central Railroad (WVCR) from CSX Transportation (CSXT) in November 1997. The State paid \$3 million for the railroad and accepted responsibility for 19 highway bridges. The railroad is composed of the former CSXT Belington, Tygart and Laurel Subdivisions and Dailey Branch. The Authority purchased the WVCR after CSXT sought to abandon the line. It is currently operated by a private contractor known as the Durbin and Greenbrier Valley Railroad (D&GVR). The D&GVR has seven full-time and seven part-time employees. The WVCR has a total of 132.13 route miles. Freight service is available on only 28.4 miles of the WVCR. One or two trains per week haul freight. Two excursion trains operate on the WVCR: The Tygart Flyer and the Cheat Mountain Salamander. The Tygart Flyer runs on certain weekends during the summer and fall. The Cheat Mountain Salamander makes round trips between Cheat Bridge and the “Big Cut” near Spruce. Approximately 32 miles of the line south of the “Big Cut” are not in a useable condition.

The State does not collect significant operating revenues related to the WVCR since the railroad is operated by a contractor (see Table 7). The State receives a relatively small amount of revenue from right-of-way agreements on the WVCR. State expenditures are primarily for long-term maintenance and improvement costs. The contractor’s gross revenue has steadily increased since operations began in 1998. The number of passengers on the line’s excursion trains has also increased. Freight traffic is low and inconsistent. Tax revenues from the contractor to the State are not listed because of confidentiality. However, they are a relatively small amount and do not come close to funding long-term maintenance and improvement costs on the WVCR. The WVCR’s operating loss for FY 2000 was \$160,336.



	Contractor's Total Revenue	Revenue to the State	Freight Cars Per Mile	Number of Excursion Passengers
1997	\$0	\$0	0	0
1998	\$3,450	\$23,785	0.73	0
1999	\$97,158	\$17,269	8.17	7,949
2000	\$211,281	\$25,930	3.43	12,254

The operating agreement between the Authority and the D&GVR requires the D&GVR to pay the Authority an annual amount based on a percentage of the contractor's gross revenue from the previous year. This is based on gross revenue from freight transportation, excursion passenger ticket sales, and other recreational activities, but not on gift shop, concessions and interest income. No payment is made unless the D&GVR has gross revenues in excess of \$100,000. The railroad's gross revenues exceeded \$100,000 for the first time in 2000 and the State received \$10,564.05 from the contractor.

Compared to the Authority's other rail line, the South Branch Valley Rail, freight traffic on the WVCR is substantially lighter. A comparison of data found in Tables 7 and 9 illustrate the number of carloads of freight per mile of rail line that is hauled on the two railroads. Because of the lack of large customers on the WVCR, the possibility of greatly expanding freight service on this line may be limited. Clearly, the long-term maintenance costs to the State are great while the revenue earned by the line is relatively small. *The costs of keeping this line in service, coupled with the limited utilization of the railroad, question the economic justification of the WVCR project.* The Authority should provide research as allowed under West Virginia Code §29-18-6(a)(14) to justify the continuation of this rail line.

### **The South Branch Valley Railroad Benefits The Poultry Industry & Thus The Economic Development of the Eastern Panhandle**

The South Branch Valley Railroad (SBVR) comprises a 52.4 mile route from Petersburg to Green Spring where it links to the CSXT mainline connecting Cumberland, Maryland to Martinsburg, West Virginia. The railroad crosses Hampshire, Hardy and Grant counties and serves the towns of Romney, Moorefield and Petersburg. State employees perform maintenance and freight operations. The Chessie System's Baltimore and Ohio Railroad (now CSXT) turned over the rail line to the State on October 11, 1978. West Virginia is the first and only State in the nation to own

and operate a commercial freight railroad.

Freight service operates five days a week, Monday through Friday, with special train operations on weekends as needed. One freight customer, the Pilgrim's Pride Corporation's chicken processing facility (formerly Wampler-Longacre Foods) in Moorefield, accounts for over 89% of the Authority's total freight revenue. The SBVR does have a number of other freight customers; however, the volume of freight traffic they ship with the railroad is minor compared to Pilgrim's Pride. Since freight business accounts for most of the revenue earned by the Authority and one customer accounts for the majority of freight revenue, the SBVR primarily serves the poultry processing industry in the eastern part of the State.

In 1992, \$4,000,000 in commercial development revenue bonds were issued by Hampshire and Hardy counties in order to finance improvements to the SBVR in those counties. Debt servicing is the obligation of the Authority. The bonds are scheduled to be paid off by 2007. This is the only bond issue currently serviced by the Authority.

Although the poultry industry in the State's Eastern Panhandle has grown rapidly since Wampler-Longacre Foods began expanding the Moorefield facility in 1993, the Authority does not feel that privatizing the SBVR is a viable option.

*...by remaining in State hands, the SBVR is eligible for flood disaster relief that a private company would not have access to. Because of the railroad's location, flooding is a constant threat and a private company could not sustain the financial impact a flood would cause. They would be forced to abandon this much needed transportation mode. The state must play an active role in assuring the continued service of this railroad.*

The Authority also commented on the profitability of the SBVR as a factor that makes privatization an undesirable option.

*Currently we do not feel the profitability of the railroad would be attractive to a private operator/buyer. The SBVR's FY2001 operating ratio was 1.11. Opportunities have recently developed which should allow us to increase profitability. However, it is still too uncertain to take the risk of turning over the railroad to a private operator who might go bankrupt and lose this important transportation mode.*

The Authority also indicated that alternative forms of transportation would be considerably more expensive for its customers.

*In 1996 a flood occurred resulting in closure of the railroad for three weeks. During that time our largest customer, Wampler Foods (now Pilgrim's Pride) reported to us that they had sustained \$220,000 in additional transportation costs. Other companies have also indicated their support of the railroad in letters to the Secretary of Transportation and the Governor. Rail is by far the most economical mode of transporting products to and from the local businesses due to the characteristics of products consumed and produced in the valley.*

The Authority does have plans to reduce operating costs on the SBVR although it does not plan to raise freight rates to increase profitability. The Authority described its cost-reduction plan as follows:

*Increasing freight rates over the past few years has not been a viable option because based on the national average of shortline rates, the SBVR is much higher than other shortlines. The SRA is working on a long-term plan that should result in a large reduction in our overall costs. We are working with Pilgrim's Pride and CSX to begin transporting corn in 90-car unit trains that turn around in a 24-hour period. When this occurs, the SBVR will see substantial savings in carhire and overtime. Also, in order to unload the train and deliver it back to interchange in a 24-hour period, CSX will leave their locomotive power on the train for the SBVR crew to use. This will reduce our overall need for locomotive power, reduce diesel fuel expense and lower maintenance costs on locomotives. This situation will allow us to service our other customers more efficiently, which will also result in cost savings.*

The Authority's plan cannot be implemented until two separate capital investments are completed. First, the Authority is having the railroad lines' bridges upgraded. According to the Authority, these should be completed sometime after February 2002. In addition, Pilgrim's Pride receiving facilities must be enlarged, which will take four to five months of work. However, in an attempt to increase efficiency prior to being able to use 90 car trains to transport Pilgrim's Pride's grain shipments, the Authority has stated that it will begin running 65 car trains for these shipments.

Table 8 traces the growth of the SBVR's freight traffic since it began operations. After Wampler-Longacre expanded operations at the company's feed mill in 1993, a considerable increase in the level of freight traffic resulted. The level of freight traffic has remained stable since 1994 at just over 4,000 carloads per year. The total number of carloads for FY 2001 was an exception to this trend as it fell by 406 cars. According to the Authority, this decrease was a temporary situation caused by two factors. CSX Transportation was unable to provide consistent service at the interchange with the SBVR. This problem is currently being addressed by both railroads. Also, a temporary downturn in the poultry market caused Pilgrim's Pride to decrease its traffic by 148 cars. The number of cars has since returned to normal and there may be an increase in traffic in the near future. As previously mentioned, the Authority is negotiating with Pilgrim's Pride to move corn in 90-car unit trains. When this occurs, the mill intends to increase inbound shipments of feed grains.

When comparing freight traffic on each railroad as illustrated in Table 7 and Table 8, it is clear that there is a great disparity in the level of utilization of the SBVR and that of the WVCRR. The SBVR hauls the vast majority of the freight carried by the Authority's railroads.

<b>Table 8</b>		
<b>South Branch Valley Railroad Freight Traffic</b>		
<b>Fiscal Year</b>	<b>Carloads</b>	<b>Freight Cars Per Mile</b>
1978	487	9.37
1979	1,737	33.40
1980	1,421	27.33
1981	1,255	24.13
1982	1,148	22.08
1983	1,113	21.40
1984	1,000	19.23
1985	807	15.52
1986	568	10.92
1987	962	18.50
1988	1,261	24.25
1989	1,661	31.94
1990	1,912	36.77
1991	2,102	40.42
1992	2,275	43.75
1993	3,460	66.54
1994	4,307	82.83
1995	4,233	81.40
1996	4,145	79.71
1997	4,272	82.15
1998	4,047	77.83
1999	4,023	77.37
2000	4,044	77.77
2001	3,638	69.96

# The Economic Impact of the Poultry Industry in West Virginia

Chicken production has become the largest agricultural commodity produced in West Virginia, generating \$148 million annually. The success of this industry is a contributing factor to the low unemployment rate in Hardy County, which averaged 2.6% during calendar year 2000 (see Table 8). This was less than half the State average of 5.5% for the same period.

Currently, **there are 350 poultry farmers in the five-county area around Moorefield.** Wampler-Longacre Foods contributed to the growth of this industry when it bought the 50-year-old Rockingham Poultry processing plant in Moorefield in 1988. The company added 800 jobs after taking over the facility, spending \$50 million on expanding the facility over five years. This expansion doubled the plant’s production capacity, which reached a level of 362 million pounds of live chickens in FY 2000 or nearly 7 million live pounds per week. Approximately 230 growers operate more than 600 chicken houses that supply the plant with over 88 million birds each year. **The facility currently employs over 1,700.**

Table 8 traces unemployment rates in the region. Hardy County, where several poultry processing facilities are located, has consistently had the lowest unemployment in the region, particularly since the expansion of the Wampler-Longacre facility. The impact of the poultry industry on surrounding counties is more difficult to determine since these counties do not contain processing facilities.

Table 9 Unemployment Rate in Eastern West Virginia Poultry-Producing Counties				
County	Unemployment			
	1987	1993	1997	2000
Grant	15.4	9.6	10.7	7.0
Hampshire	9.6	9.0	5.8	4.2
Hardy	6.6	4.9	4.0	2.6
Mineral	9.3	7.5	5.0	6.1
Pendleton	6.3	4.7	3.6	10.1*
State Average	10.8	10.9	6.9	5.5

\*Unusually high unemployment rate for 2000 was due to the closing of a large manufacturing facility. Unemployment rates are generally much lower than the average for 2000, and monthly rates did not exceed 5.3% for the period from January to August 2001.

Table 10 tracks the growth in the number of broiler and other meat-type chickens sold in the region and in the State as a whole. Hardy County alone accounted for half of the total number of chickens sold in the State in 1997, while the region accounts for nearly all of the State total.

County	1987	1992	1997
Grant	6,588,700	12,139,400	15,210,209
Hampshire	792,005	879,600	4,144,861
Hardy	11,728,351	24,866,045	38,514,510
Mineral	N/A*	N/A*	2,410,000
Pendleton	9,661,328	12,459,329	18,863,174
Regional Total	28,770,384	50,344,374	79,142,754
State Total	29,226,871	50,669,811	79,193,428

\*Census data were unavailable to avoid disclosing data for individual farms.  
Source: Agricultural Census for West Virginia

Table 11 shows the increase in the value of poultry sold in the five county area.

County	1987	1992	1997	% Growth
Grant	\$10,762,000	\$18,950,000	\$30,766,000	186%
Hampshire	1,609,000	2,417,000	9,211,000	472%
Hardy	31,395,000	58,012,000	101,004,000	222%
Mineral	568,000	1,040,000	4,808,000	746%
Pendleton	27,059,000	40,581,000	58,447,000	116%
Regional Total	71,393,000	121,000,000	204,236,000	186%
State Total	\$73,451,000	\$135,606,000	\$223,083,000	203%

Source: Agriculture Census for West Virginia

The amount of tax revenue paid by Pilgrim's Pride to the State cannot be revealed due to the State's confidentiality statutes. However, the amount of taxes Pilgrim's Pride pays to the State from wage withholdings, corporate net income, and sales taxes exceed the State's subsidy assistance of the SBVR. The importance of this industry as well as the SBVR is apparent from the State revenue collected.

In addition to the direct financial impact in terms of taxes which are paid to the state from work at the Pilgrim's Pride facility, the five county poultry producing area has also had a substantial increase in terms of the assessed valuations of personal property taxes and real estate taxes levied since 1987. This growth, as shown in Table 12, has, with the exception of Pendleton County, far exceeded the growth in assessed valuations of personal property taxes and real estate taxes levied for the state during this same time period.

<b>Table 12</b>				
<b>Assessed Valuations of Personal Property Taxes &amp; Real Estate Taxes Levied in West Virginia Poultry-Producing Counties</b>				
County	1987	2001	Increase	% Increase
Grant	\$1,456,058	\$3,540,919	\$2,084,861	143%
Hampshire	2,092,724	6,920,834	4,828,110	231%
Hardy	1,544,203	4,732,410	3,188,207	206%
Mineral	4,708,285	9,761,475	5,053,190	107%
Pendleton	643,964	1,964,246	1,320,282	205%
Regional Total	10,445,234	26,919,884	16,474,650	158%
State Total	369,509,587	791,305,906	421,796,319	114%
Source: West Virginia Department of Taxation				

While there are other chicken processing facilities in the Moorefield area, including facilities owned by ConAgra and Advantage Food, the SBVR only services the Pilgrim' Pride Foods facility. This is because Pilgrim's Pride Corporation is the only poultry processing company in the area that has a feedmill and, therefore, is the only company that would ship feed, which constitutes the largest portion of the SBVR's freight. ConAgra owns its own fleet of trucks and ships nothing by rail. To extend service to Advantage Food's facility would require the extension of the SBVR's tracks and would incur costs disproportionate to the additional revenue that would be gained from outbound freight. The Authority feels that this would increase freight costs.

## Impact of the Existence of the South Branch Valley Railroad

This report cannot state with certainty that the growth of the poultry industry in the eastern panhandle would not have occurred without the existence of the South Branch Valley Railroad. However, the data provided by the Authority shows that the transportation cost of importing grain into the eastern panhandle is \$10.55 per ton ( 40%) cheaper via the railroad than via truck (\$15.95 per ton via the SBVR as compared to \$26.50 per ton via truck). Thus, although the poultry industry might have grown in the Eastern Panhandle without the SBVR, it is clear that the SBVR substantially assists the poultry industry.

Furthermore, it is clear that even with the present losses on the railroad, the state taxes generated from the Pilgrim's Pride's facility alone covers the Authority's operating losses. Moreover the five poultry producing counties served directly or indirectly by the SBVR, have seen a 156% growth in the assessed valuation of personal property taxes and real estate taxes since 1987. This compares with a statewide increase of 114%. Thus, it is clear that the growth of the poultry industry has had other positive tax implications for the state and county governments.

In addition, in evaluating the impact of the SBVR, there is a need to evaluate the external economic and non-economic impact of the SBVR with regards to the poultry industry. The Authority reports that:

*It takes about 4 loads in a truck to equal one rail car. Even if the cost wasn't so much higher it would not be feasible to ship by trucks because of the volume. It would take over 240 trucks a week to haul corn and soy to the feedmill and this is not a feasible situation in our area.*

Thus, even if the poultry industry in the Eastern Panhandle was still viable without the SBVR, elimination of the SBVR would most likely have other external impacts. These would be caused by the major increase in truck traffic in the area and include: some increase in traffic accidents from having multiple trucks on the roads versus a few trains, an increase in noise and air pollution from the addition of 240 trucks in the area each week, and either an increase in the maintenance cost to the roads in the Eastern Panhandle or the need for additional road construction to bring the grain to Moorefield from the train terminal in Maryland. Such costs can be substantial. According to the West Virginia Division of Highways, "the average cost per mile for a four-lane highway in WV is approximately 10 million dollars."

In addition to the impact the SBVR has on the poultry industry, the SBVR also is used by the excursion train, the *Potomac Eagle*. Over the past three years the *Potomac Eagle* has had over 20,000 riders annually. The costs of tickets range from \$10 to \$40. Assuming an average ticket cost of \$20, the *Potomac Eagle* alone brings in economic activity of \$400,000 to the Romney, West Virginia area. According to the Authority, the *Potomac Eagle* is assumed to have an economic multiplier effect rate of 3. This means that the Authority estimates that the *Potomac Eagle* has a total economic impact of \$1.2 million annually to the Romney area. This would not occur without the SBVR .



## Conclusion

The State Rail Authority was created to facilitate the continued operation of essential railroads in the state. This function was to be carried out in a way that promoted efficiency and safety. The Legislative Auditor has concerns about the Authority's increasing losses and the number of derailments on the Authority's tracks which have a negative financial impact on the Authority (see Issue Area 2).

**The Legislative Auditor recognizes that the poultry industry in the Eastern Panhandle of the State provides a compelling economic justification for continued rail service on the SBVR.** Nevertheless, the Authority is experiencing increasing losses on SBVR. When the losses include insurance losses the annual loss is nearly \$1.5 million. Any program of the state has the implied objective to operate at the lowest cost to the taxpayers of the state.

**The Legislative Auditor does question the economic justification of the West Virginia Central Railroad or continuing the current contractual arrangement in which the state receives little revenue and incurs significant expenses.** From an economic standpoint, this rail line does not appear to be essential. The Legislative Auditor recommends that the Authority justify this project by providing a comprehensive cost-benefit analysis to the Joint Committee on Government Operations, and justification as to why the Authority considers this project essential.

The Legislative Auditor's major concern with the State Railroad Authority is its increasing annual losses. **While presently the economic benefits to the State more than cover the operating losses of the Authority, if the losses continue to grow at the present rate over time they could become substantial.** Thus, the Authority should make every effort to make the SBVR a profitable operation, including efforts to increase rail service customers and attempts to increase the efficiency of its operations. The Legislative Auditor recommends that State Railroad Authority report to the Legislature in 2003 the effectiveness of its attempts to begin using 90 car trains to haul grain to the Pilgrim's Pride facility and that both the Authority and the Legislature should consider whether the employees of the State Railroad Authority should be offered some type of financial benefit program which would pay bonuses to the Authority's employees for reducing or eliminating the Authority's losses while also reducing the number of derailments on the SBVR.

### Recommendation 1:

*The State Rail Authority should provide an analysis to the Joint Committee on Government Operations that demonstrates the economic benefit is greater than the cost to the State of continuing operations on the West Virginia Central Railroad.*

## **Recommendation 2:**

*The State Rail Authority should report to the Joint Committee on Government Operations in January of 2003 whether the Authority's goal to begin running 90 car trains to the Pilgrim's Pride facility with a 24 hour turn around has been achieved and, if so, whether this has increased the Authority's efficiency in operating the SBVR.*

## **Recommendation 3:**

*The State Rail Authority should consider proposing to the Legislature a financial benefit plan which would reward the Authority's employees for reducing or eliminating the Authority's losses while also reducing the number of derailments on the South Branch Valley Railroad.*

## **Recommendation 4:**

*The Authority should have its financial statements present total losses as well as dividing losses between each rail project. If losses were to increase substantially for the SBVR, the Authority should conduct appropriate research to determine the cost-benefit to the state and examine alternative modes of transportation for SBVR customers to determine if the companies served by SBVR can operate profitably under alternative transportation.*

**Issue 2: Insurance Losses Suffered by the Authority, which cost the State over \$100,000 Annually, have been Substantially Reduced since Fiscal Year 1997, but still Present a Serious Safety Risk.**

The Authority experienced derailments on its railroads each year from 1996 to 2000. Derailments have resulted in considerable costs to the State, particularly in the form of costs for coverage provided by the Board of Risk and Insurance Management (BRIM). It should be noted that insurance losses have steadily decreased since 1998. Table 13 lists derailments on the South Branch Valley Railroad from 1996 to 2000. Total derailment costs are broken down according to those paid by BRIM and those paid by the SRA. This railroad is directly operated by the Authority. The Authority does not complete investigation reports on such incidents and, therefore, no information was available to determine the causes of derailments for this report. The Durbin and Greenbrier Valley Railroad is responsible for any costs associated with derailments on the West Virginia Central Railroad but has reported no derailments since it began operating in 1998.

Derailment Location	Date	Total Cost	Costs Paid by BRIM	Costs Paid by the SRA
Milepost 8.4	12-31-96	\$102,495.81	\$96,907.37	\$5,588.44
Milepost 31.5	1-21-97	\$371,964.85	\$193,100.81	\$178,864.04
Milepost 32.1	5-6-97	\$235,200.98	\$186,434.12	\$48,766.86
Milepost 21.9	7-8-98	\$294,245.97	\$262,637.94	\$31,608.03
Milepost 39.2	8-3-98	\$111,762.97	\$75,756.34	\$36,006.63
Milepost 14.5	10-29-98	\$21,588.22	\$16,412.75	\$5,175.47
Milepost 25.7	12-20-99	\$96,943.03	\$90,807.34	\$6,135.69
Milepost 22.1	6-22-00	\$127,820.52	\$120,255.58	\$7,564.94
Milepost 11	10-1-00	\$159,151.02	\$124,348.75	\$34,802.27
<b>Total</b>		<b>\$1,521,173.37</b>	<b>\$1,166,661.00</b>	<b>\$354,512.37</b>

The total cost to the State for derailments has often amounted to hundreds of thousands of dollars each year. This illustrates the high costs of liabilities brought on by the operation of railroads by the State.

A 1998 Management Review conducted by the West Virginia Department of Transportation

identified a lack of regularly scheduled maintenance on each railroad owned by the Authority.

*There is no development or promotional plan or maintenance schedule for the WV Central Railroad and there does not appear to be a coordinated schedule for maintenance and improvements to the South Branch Valley Railroad. Assignments and priorities appear to be based on system failures and/or the unilateral assessments and decisions of individual Board members.*

Routine maintenance is the responsibility of the Authority for the SBVR and the Durbin and Greenbrier Valley Railroad for the WVCR. The Authority currently performs inspections on tracks on a weekly basis. Sections of track where passenger trains operate are inspected twice weekly, as required by the Federal Railroad Administration. Such maintenance activities as ditching, tamping, and bolt tightening are routinely performed. Broken rails, spot tie installation and other track defects are repaired as needed. In addition, capital improvement plans exist for both railroads. This includes a seven-year plan to upgrade the SBVR's light rail sections to heavy welded track, in addition to crosstie replacement, additional ballast, roadbed widening and bridge upgrades. Interestingly, derailment costs were down in calendar years 1999 and 2000 following the release of the Department of Transportation's Management Review. The Authority appears to have made improvements in regular maintenance since the Review's release.

### **Other Insurance Losses Suffered by the Authority**

Derailments are not the only cause of insurance losses suffered by the Authority. Other causes include improper equipment usage, automobile accidents, floods, equipment failure and mine subsidence. The level of insurance liability to which the State is exposed is considerable given the operation of heavy equipment and vehicles by the Authority. Table 14 illustrates the total amounts paid by BRIM for all causes of insurance loss from FY 1995 to FY 2000.

Fiscal Year	Amount
1995	\$1,706
1996	\$57,695
1997	\$479,775
1998	\$0
1999	\$357,948
2000	\$214,515
2001	\$125,449
Total	\$1,237,088
<i>* Data in Table 14 also includes BRIM derailment payments listed in Table 13 in addition to other BRIM insurance payments. Table 14 data are listed according to the years during which BRIM made payments. Table 13 data are organized according to the dates on which derailments occurred.</i>	

## **Conclusion**

The operation of railroads and the associated heavy equipment places considerable liabilities on the State. The Authority's record of insurance losses combined with the large losses at which the Authority operates places a long-term financial burden on the State. The Authority should continue to increase its efforts to improve the safety of rail lines. The completion of accident reports by the Authority would permit future reviews of safety and maintenance practices on the SBVR.



### **Issue 3: The State Rail Authority does not Perform a Statewide Proactive Function for the Promotion of Rail Service as Authorized by Statute.**

Although the State Rail Authority has the authority to respond to the possible loss of essential rail lines statewide, **the agency's response will be reactive rather than proactive.** A proactive function will do more to prevent the loss of essential rail service by taking action to make rail service healthier in the state, and by anticipating the problem before it becomes too serious or costly to prevent the loss. The Authority developed a statewide proactive plan that identified the need to maintain current knowledge of the status and use (and changes in use) of rail lines throughout the state with the intent of strengthening rail services where needed and anticipating the abandonment of rail lines. One form of action included an effort to obtain new rail service customers on underutilized lines. **This proactive plan has not been updated since 1994.** Consequently, the Authority will likely respond to the threat of abandonment of essential rail lines at the time the company requests permission from the federal government to abandon a line. At that point it may be too costly for the Authority to continue the line.

The State Plan was developed in response to federal requirements in order to receive grants under the federal Local Rail Freight Assistance (LRFA) program. Since the Authority has not received any regular federal funding since 1995, the Authority has not updated the State Rail Plan. In the absence of a State Rail Plan, the Authority has neglected a valuable tool for assessing the status of rail services in the state, strengthening rail services and anticipating rail abandonment statewide. The Authority also does not maintain data on the number of miles of abandoned rail lines in the State. It is difficult to demonstrate a systematic statewide planning role for the Authority in the absence of such a plan. The railroads owned by the Authority operate in the northeastern portion of the State which is also where the Authority's office is located, having relocated from Charleston in 1978. With the end of the LRFA program, **the Authority largely confines its activities to this region and does not appear to be active with respect to promoting rail service statewide as authorized by statute.**

The West Virginia Railroad Maintenance Act was passed in 1975. The State Rail Authority was primarily created as a means to qualify for federal funds which were available at that time. According to WVC §29-18-2:

*It is hereby declared to be the public policy of the state of West Virginia and a responsibility of the state of West Virginia, to facilitate railroad transportation and commerce within the state by exercising those powers of the state necessary to qualify for rail services continuation subsidies pursuant to the provisions of the federal Regional Rail Reorganization Act of one thousand nine hundred seventy-three...The Legislature finds and hereby declares that this responsibility of the state cannot be effectively met without the establishment, funding, construction, reconstruction, acquisition, repair, replacement, operation and maintenance of railroads and railroad projects.*

The Federal Regional Rail Reorganization Act of 1973 (Public Law 93-236, Sec. 401,

paragraph C, subparagraphs 1 and 2) required states to meet certain criteria in order to qualify for rail services continuation subsidies, including the following:

1. *the State has established a State plan for rail transportation and local rail services which is administered by a designated State agency and such plan provided for the distribution of subsidies among State, local, and regional transportation authorities;*
2. *the State agency has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; and maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation...*

The Rail Service Continuation Subsidies Program was limited in scope, distributing subsidies to a few states in the Northeast until the end of the program in 1981. West Virginia did not actually receive any of these funds although the Authority was created with the intent of making the State eligible for them.

## **Activities of the State Rail Authority**

Until 1995, the Authority received LRFA or Local Rail Service Assistance (LRSA) funding. The LRSA program was created as a result of the Federal Regional Railroad Reorganization Act of 1973 to promote the continuation of rail services. With the creation of Conrail in the 1970's, smaller rail lines not organized under Conrail were made eligible for this type of assistance. The LRFA program began in 1976 as a successor to the LRSA program. The two programs were intended to provide assistance to states outside of the Northeast as LRFA became a nation-wide program in 1976. The LRSA and LRFA programs primarily funded the construction and maintenance of rail lines as opposed to serving as operating subsidies. Since the end of these programs, federal funding for the Authority has taken the form of two grants to compensate the Authority for flood damage. One grant was for \$900,000 to repair flood damaged bridges on the South Branch Valley Railroad, the other grant was for \$2,000,000 to repair flood damaged sections of the West Virginia Central Railroad. Table 15 lists the annual amounts received by the Authority under these two programs. Non-federal funds were composed of matching funds provided by recipients of grants administered by the Authority.

The Authority was empowered by the State to function in roles which were necessary to qualify for federal funding and for the purpose of promoting the rail industry. The Authority may do such things as make loans and grants for railroad projects, acquire, operate or improve railroad projects, issue Railroad Maintenance Authority Bonds, engage in research and collect revenues from railroad projects. As previously mentioned, the Authority is permitted to fund railroad projects. The only grants made for railroad projects not owned by the Authority were made from LRFA funds administered by the Authority during FY 1994 and FY 1995. In FY 1994, \$70,000 was provided to the Little Kanawha River Railroad in Parkersburg to rehabilitate a bridge. In FY 1995, \$295,750



was provided to the Winchester & Western Railroad for track rehabilitation. These two federal grants represent the only form of funding provided through the Authority for the purposes of preserving private rail service in the State.

Calendar Year	LRSA		LRFA	
	Federal Amount	Non-Federal Amount	Federal Amount	Non-Federal Amount
1983	\$200,000	\$85,714	\$0	\$0
1984	\$250,000	\$107,143	\$0	\$0
1985	\$150,000	\$64,286	\$0	\$0
1986	\$310,200	\$132,943	\$0	\$0
1987	\$428,496	\$143,642	\$0	\$0
1988	\$348,000	\$149,144	\$0	\$0
1991*	\$0	\$0	\$36,000	\$0
1992	\$0	\$0	\$336,000	\$144,000
1993	\$0	\$0	\$161,000	\$53,572
1994	\$0	\$0	\$520,000	\$222,857
1995	\$0	\$0	\$331,750	\$126,750

\* No funds were received during 1989 or 1990.

Of the abandoned rail lines in the State, the Authority has preserved service only on the two lines it actually owns since the agency's creation. The Authority has retained another 266.28 miles of rail banked property. This preserves the right-of-way for possible future use by utilizing the abandoned lines as recreational trails. The Authority only rail banks those lines it feels have potential for future use.

*When we receive notification of a potential rail abandonment, we first notify all of the local government agencies. The agency only becomes involved if there is a viable economic reason to keep the railroad intact. If there is reason to protest the abandonment, we will submit an opposition of the abandonment to the Surface Transportation Board. If the abandonment is granted then we would work with local agencies to try to preserve rail service for current use or railbank it for future use.*

There is no documentation or analysis on how the Authority determined abandoned lines that have been banked were not essential for continuing rail service.

The Authority has been engaged in limited research activities on behalf of the railroad industry. One such project has been the testing of a method for treating lumber used in railroad construction to increase its durability. The Authority has not conducted current research to determine the status of rail lines, the use and change in use of rail lines, the financial conditions of rail lines statewide, or the needs of rail lines statewide.

## Conclusion

Clearly the State Rail Authority was created in accordance with the federal requirement to have an agency to act as a source of planning and support for the rail industry in the state in order to qualify for federal subsidies. However, since the end of the federal program in 1995 the Authority has limited its attention to the two rail lines it directly operates. While the Authority is empowered and in position to respond to possible loss of essential rail lines, its response may be too late to continue rail services. **The Authority does not function in the capacity to promote or foster a strong railroad industry, although it is empowered to do so.** There is no research provided to determine the status of the railroad industry, the financial conditions, the use and changes in the use of rail services statewide, and the needs of rail lines. There is no activity to strengthen rail lines that may be struggling, nor is the agency in good position to anticipate rail line abandonment. **The lack of a statewide proactive focus by the Authority increases the risk of losing essential rail service.** Therefore, the Legislative Auditor makes the following recommendation.

## Recommendation 5:

*The State Rail Authority should update and implement a statewide proactive plan with the intent to:*

- 1) *anticipate rail abandonments;*
- 2) *react to unanticipated rail abandonments;*
- 3) *identify struggling rail lines that can be strengthened, including the effort to obtain new rail service customers for underutilized rail lines;*
- 4) *obtain and maintain knowledge of the status of rail lines, the use and changes in the use of rail line services, and possibly the financial conditions of railroad companies; and,*
- 5) *perform other activities necessary to promote and support a strong, safe, efficient and adequate railroad industry as authorized by statute.*

#### **Issue 4: Updated Information on Issues from the 1999 Preliminary Performance Evaluation.**

***Issue Area 1: Most employees of the State Rail Authority are members of the Public Employees Retirement System (PERS) and the U.S. Railroad Retirement Board's system and may retire with benefits exceeding 100% of final pay.***

This issue was addressed by a 2000 amendment to WVC §5-10-17. Paragraph (b) lists persons excluded from membership in PERS. The following language addressed this issue:

*...That membership of the retirement system does not include any person who becomes a member of the federal railroad retirement act on or after the first day of July, two thousand.*

***Issue Area 2: Payments to board members for travel and compensation may be excessive.***

Since the release of the June 1999 report, two members of the Authority's Board of Directors have resigned and a third was not reappointed. The members who resigned included individuals who may have received excessive compensation. Furthermore, the Authority filed a proposed procedural rule, 172CSR1, on June 19, 2001, that specified when members are eligible for compensation.

6) *4.11. Board of Director members, except for the Chairman, shall be entitled to reimbursement for travel expenses to and from Board of Directors meetings and during official duties assigned by majority vote of the Board of Directors or authorized by the Chairman. Reimbursement of meals, lodging and other legitimate expenses shall be in accordance with W.Va. Code §4-2A-7.*

*4.12. Board of Director members, except for the Chairman, shall receive the same compensation as is paid to members of the West Virginia Legislature for their interim duties in according to W.Va. Code §6-9A.*

***Issue Area 3: Committee meetings of SRA are in violation of the Open Meetings Law.***

The Legislative Auditor's Office has confirmed with the Secretary of State's Office that the Authority has filed meeting notices in a timely fashion since the June 1999 report.

***Issue Area 4: State Rail Authority bylaws out of date.***

Since the release of the June 1999 report, the Authority's bylaws have been replaced with amendments to the West Virginia Code and are no longer updated.

***Issue Area 5: Annual election of officers not occurring as required by statute.***

On June 19, 2001, the Authority filed a proposed procedural rule, 172CSR1, with the Secretary of State's Office that addressed:

*...the conduct of meetings, the organization, the compensation and reimbursement, the election of officers, the appointment of an Executive Director and the duties of the Board of Directors of the West Virginia State Rail Authority.*

The new procedural rule should correct the problems the Board has had with the selection of officers.

**APPENDIX A**

**Transmittal Letter to Agency**



**WEST VIRGINIA LEGISLATURE**  
*Performance Evaluation and Research Division*

Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610  
(304) 347-4890  
(304) 347-4939 FAX



John Sylvia  
Director

October 12, 2001

Fred VanKirk, P.E., Cabinet Secretary  
Department of Transportation and  
Commissioner of Division of Highways  
Building 5, Room A109  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0440

Dear Mr. VanKirk:

This is to transmit a draft copy of the Preliminary Performance Review of the West Virginia State Rail Authority. This report is scheduled to be presented at the Sunday, October 21, 2001 interim meeting of the Joint Committee on Government Operations. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have. We would like to schedule an exit conference to discuss the report with you via telephone on Tuesday, October 16, at 10:00 A.M., if this is convenient with you.

We would appreciate your written response by noon Friday, October 19, 2001 in order for it to be included in the final report.

Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.  
John Sylvia

JS/wsc

c: William W. Hartman  
Executive Director

\_\_\_\_\_ *Joint Committee on Government and Finance* \_\_\_\_\_





**APPENDIX B**  
**Agency Response**



**STATE RAIL AUTHORITY RESPONSES TO  
PRELIMINARY PERFORMANCE REVIEW**

**R E C E I V E D**  
NOV 28 2001

**Issue 1:**

The State Rail Authority's operating losses have increased.

PERFORMANCE EVALUATION AND  
RESEARCH DIVISION

**Recommendation 1:**

*The State Rail Authority should provide analysis to the Joint Committee on Government Operations that demonstrates the economic benefit is greater than the cost to the State of continuing operations on the West Virginia Central Railroad.*

- ◆ The WVCR is operated by an outside contractor known as the Durbin and Greenbrier Valley Railroad. This organization has hundreds of stockholders from the local area. The agreement was signed in September 1998. The first full year of operations for this operator was 1999. It is not realistic to expect any new business to show a profit within the first few years of operations. The DGVR's revenues have steadily climbed in their first two full years of operations. They had projected revenues of \$80,000 in 1999 and \$220,000 in 2000. As stated in the auditor's report, actual revenues were \$97,158.81 in 1999 and \$211,281 in 2000. Although the freight revenue has not taken off as projected the tourist attractions have been received with great enthusiasm. Also, this operator is working with the local Development Authority to develop more benefits for the entire community. A plan is underway involving the operator, the City of Elkins and the Randolph County Development Authority to build a bridge from the railroad to the Elkins Depot. This will bring tourists into downtown Elkins to board and depart from the train. This tourist train will be the foundation for a long-term economic plan that includes shopping outlets, restaurants and a hotel/conference center. Tourist trains provide many secondary impacts to the local economy even without such an elaborate tourism package. The SRA feels that it is too soon in the operation to have a RIMSII (Regional Input-Output Modeling System) Economic Analysis performed. We feel that this is something that should be considered after the DGVR and the local economy has had time to develop this tourism draw. The earliest a survey could be conducted would be during the 2002 operating season. However, this data would under state the potential of the rail line because several initiatives being planned would not be in place during the survey period. We contacted a professional consulting firm, Stone Consulting of Warren, PA, who is an acknowledged expert in the field of tourist train operations. Randy Gustafson of Stone Consulting agreed with our position that adequate data is necessary for a meaningful analysis.
- ◆ The potential freight business takes time to identify and develop. The DGVR has a full time marketing person working to attract local businesses to use rail service. Also, trends in coal demands could change at any time. There are millions of tons of coal reserves located along this railroad and the only way to get the coal to the customer is by rail.

- ♦ As the DGVR produces more revenue, their payment to the state will increase thus lowering the amount of state appropriation needed for continual capital improvements.
- ♦ It is the will of the SRA to follow legislative guidance in promoting this railroad to its full potential. We feel however that it is premature to state that the West Virginia Central Railroad has limited economic benefit, when in fact, the counties served by this railroad will see economic growth as this asset reaches its potential.

**Recommendation 2:**

*The State Rail Authority should report to the Joint Committee on Government Operations in January of 2003 whether the Authority's goal to begin running 90 car trains to the Pilgrims Pride facility with a 24 hour turn around has been achieved and, if so, whether this has increased the Authority's efficiency in operating the SBVR.*

- ♦ The Agency has no problem reporting our progress on the 90-car unit trains to the Joint Committee on Government Operations. We welcome the opportunity to report improvements in operating efficiency.
- ♦ As noted in the report, moving the 90-car unit trains in a 24-hour window using CSX locomotives requires numerous upgrades to our track structure. These upgrades have been well thought out by a capable management team. The report uses the logic that an operating loss equals an inefficient railroad program. We take exception to this thought process. We do not argue that the numbers show a pattern of a continual operating loss. However, the report tends to imply that the "operating loss" is spiraling out of control. This isn't the case. We do not feel the report emphasizes all of the improvements being made on the railroad. The capital improvements on the SBVR are not being done to simply overcome deferred maintenance. They are upgrading the railroad to make it capable of handling current and future traffic. They are not just an operating expense they increase the value of the railroad. The increase in depreciation expense reflects this investment in the physical assets of the railroad. As stated previously we feel it is unfair to make the statement that an operating loss equates to an inefficient railroad when a large portion of the operating loss is attributable to depreciation of capital projects.
- ♦ The auditor's report refers to the operating loss of the State Rail Authority but attributes all of the inefficiency to the South Branch Valley Railroad. It should be noted that the bottom line operating loss includes the costs of operating the Authority. However, the revenue figure that the expenses are applied against is only generated by the railroad. If we are measuring the efficiency of the SBVR, it is wrong to burden the railroad with State Rail Authority expenses that are not directly attributable to the railroad. These expenses should not be placed against operation of the SBVR. As defined by the WV State Code, Section 29, Article 18, the SRA would continue to function as an agency of the Department of Transportation even without operating the SBVR. Other

- agencies within the DOT do not produce revenue but do incur operating expenses. These expenses are not referred to as an “operating loss.”
- ◆ The management has looked at ways to make the SRA/SBVR run more efficiently. We have analyzed the best way to approach the capital improvement projects. We determined that it was more cost effective to have a contractor install large numbers of ties than it would be to utilize our own forces for this task. Due to a lack of proper equipment, it costs the railroad twice as much to install ties with our own crews as compared to the cost of a contractor. Using a contractor for this work has allowed us to be twice as productive for the same amount of capital improvement dollars. The upgrades to the bridges have been contracted because of the expertise and specialized equipment necessary to complete this task. Another area where management has reduced costs is by not filling two vacant positions. We have combined job functions to save the costs of salaries and benefits but are still functioning efficiently.
  - ◆ It is the goal of the State Rail Authority to make the SBVR as profitable as possible. However, we feel the expectation and performance measure defined in this report should not necessarily be to operate at a bottom line profit. The State Rail Authority was created to continue not profitable but essential rail lines within the State. If the rail lines were profitable, private companies would not have abandoned them. Therefore, the economic benefit has to be the most important performance measure. Like highways, this railroad is in operation because of the economic impact it has to the valley. Pilgrim’s Pride who is the largest customer of the SBVR accounts for 35% of the total employment in Hardy County. Without rail service, this feedmill simply could not survive in this location. The cost to ship the grain to the feedmill by truck instead of rail would make it economically unfeasible for the company to remain in the valley. Also it takes about four truckloads to equal one railcar. It would not be feasible to ship by truck even if the cost wasn’t so high simply because of the volume. It would take over 240 trucks a week to haul corn and soy to the feedmill. This is not realistic in our area.
  - ◆ The report also indicates that the taxes Pilgrims Pride pays to the State from wage withholdings, corporate net income and sales taxes exceed the State’s subsidy assistance to the SRA. The report does not begin to link the other businesses in the area that benefit from this large employer and thus benefit from the railroad. Besides the nearly 300 chicken farms in the area that can be directly attributed to Pilgrim’s Pride, the other businesses such as grocery stores, gas stations, department stores, etc also pay taxes to the State thus increasing the strength of West Virginia’s economic stability.

### **Recommendation 3**

*The State Rail Authority should consider proposing to the Legislature a financial benefit plan which would reward the Authority’s employees for reducing or eliminating the Authority’s losses while also reducing the number of derailments on the South Branch Valley Railroad.*

- ◆ We feel the SRA is already in the process of reducing derailments and eliminating the Authority's losses. We have identified problem areas with the track structure and are addressing these areas through our capital improvement plan. As stated previously, we have out sourced specialized work to contractors when it was more productive. We have already restructured the train-operating schedule to run more efficiently and service our customers more often. We are working toward doing our own car inspection and repair work which will produce revenues. We have realigned management to have all areas under one supervisor. This will provide better communication and a more efficient operation. We feel these changes will produce the results we are seeking. Our employees understand that their livelihood depends on the success of the railroad and that salary increases can only be given as bottom line profits rise. Therefore, sharing money saving ideas is a natural part of their daily work habits.

#### **Recommendation 4**

*The Authority should have its financial statements present total losses as well as dividing losses between each rail project. If losses were to increase substantially for the SBVR, the Authority should conduct appropriate research to determine the cost-benefit to the state and examine alternative modes of transportation for the SBVR customers to determine if the companies served by SBVR can operate profitably under alternative transportation.*

- ◆ The financial statements as required by state code are prepared by an independent auditor. The State Rail Authority can request that the financial statements be divided for each rail line.
- ◆ If losses were to increase substantially for the SBVR, the first course of action would be to identify the reasons for the increase in losses and determine the most appropriate actions to be taken. This is the approach that our management team has taken in dealing with the current costs.

#### **Issue 2**

Insurance losses suffered by the Authority, which cost the State over a hundred thousand dollars annually, have been substantially reduced since Fiscal Year 1997, but still present a serious safety risk.

#### **Recommendation 5**

*The State Rail Authority should continue its efforts to improve rail safety and complete investigation reports detailing the causes of derailments and other accidents.*

- ◆ Investigation reports are prepared and submitted to the Federal Railroad Administration. When a derailment occurs, the SRA staff immediately goes to the derailment site and proceeds to analyze the situation. Pictures of the site are taken, track and equipment damage is documented and our Superintendents determine which car derailed first. All of this information is used to establish

the most probable cause of the derailment. (It should be noted that many factors can contribute to a derailment therefore it is often difficult to determine simply one cause of the accident.) The SRA fills out an Accident/Incident report that is required by the FRA. This report lists the date of the derailment, the location, the environmental conditions at the time of the incident, information on the equipment, estimated property damage and the most probable cause.

- Routine maintenance had been deferred for many years. This lack of continual upkeep as well as numerous floods had put the railroad in poor condition. In 1998 three derailments occurred within a five-month period. Numerous outside consultants were hired to analyze the condition of the track. Also, a realignment of staff created the position of Superintendent of Planning and Standards. This position would allow someone to develop and manage a long-term capital improvement program. John Philbrick was selected due to his previous experience on other railroads. Using the consultant reports and his own expertise, Mr. Philbrick identified possible problem areas such as wide gage, poor tie condition and light jointed rail that could all lead to derailments. A four year capital improvement plan was developed that addresses these problem areas by replacing 28 miles of light rail with heavier continuous welded rail, installing over 50,000 ties, strengthening and repairing our bridges, adding ballast where needed, widening the roadbed in narrow cuts and surfacing the entire railroad. The Legislature approved \$300,000 in emergency funding in FY 98 in order to begin the most critical repairs. To continue the capital improvement program, the SRA requested supplemental appropriations in subsequent yearly budgets. The FY2001 budget was the first to include a large appropriation for the capital improvements. Some upgrades had been performed in FY98 through 2000 utilizing federal grants. There have been no derailments on the SBVR since October 2000. The probability of derailments should continue to decrease as the improvement projects are completed. This will potentially lower our insurance premiums as well as lower the overall liability paid by the state. It should be noted, that derailments are a part of railroading and there will always be some potential for derailments even with excellent track conditions.

**Issue 3:**

The State Rail Authority does not perform a statewide proactive function for the promotion of rail service as authorized by statute.

**Recommendation 6:**

*The State Rail Authority should update and implement a statewide proactive plan with the intent to:*

- 1) *anticipate rail abandonments;*
- 2) *react to unanticipated rail abandonments;*
- 3) *identify struggling rail lines that can be strengthened, including the effort to obtain new rail service customers for underutilized rail lines; and*

- 4) *obtain and maintain knowledge of the status of rail lines, the use and changes in the use of rail line services, and possibly the financial conditions of railroad companies.*
  - 5) *Perform other activities necessary to promote and support a strong, safe, efficient and adequate railroad industry as authorized by statute.*
- ◆ The most current State Rail Plan was developed by an outside consultant in 1994 in order to fulfill the requirements of the Federal Railroad Subsidy Program. Although no formal State Rail Plan has been produced since the end of the LRSA/LRFA federal program in 1995, the Rail Authority does monitor and respond to proposed rail abandonments. As stated in the audit report, when a private railroad files an intent to abandon a rail line, we are notified of their intent in writing. Also, the SRA retains the services of Frank McKenna, a lawyer based in Washington, DC who specializes in abandonment procedures as well as other railroad matters pertaining to the Surface Transportation Board. Mr. McKenna often notifies us of potential abandonments prior to the written notification from the railroads. Upon receipt of this notification, we will contact the County Commissions to see if there are any customers being served by this line or if there are potential rail service needs in the future. We rely on the knowledge of the County Commissions in determining the economic need in their respective communities. If this line is needed to support the economy of the region, we have the authority and expertise to contest the abandonment. However, we are limited in our authority to prevent the privately owned railroads from taking actions they feel are necessary. Even if we oppose an abandonment the final decisions concerning abandonments rest with the Surface Transportation Board. We feel we have the information necessary to oppose abandonments that are detrimental to West Virginia's rail network. We employ a Property Manager who maintains records on shortlines and works closely with the local communities. Our Property Manager also uses the expertise of Mr. McKenna to assure all filings are done in a proper and timely manner.
  - ◆ The SRA does monitor freight traffic by analyzing information produced by Norfolk Southern and CSX through yearly updates of tonnage charts. These charts allow us to identify traffic trends that could lead to eventual abandonments. The SRA is limited in funding that would allow us to hire a consultant or full time employee to produce a rail plan. However, by monitoring the available information on the tonnage charts we have the same information that would be included in a formalized rail plan.
  - ◆ It should be noted that it is not always in the best interest of the state for the Rail Authority to take ownership of a rail line. We were approached by the private owner of the West Virginia Northern for the state to take ownership of this 10-mile rail line. The SRA staff and appointed board members met with the owner of the rail line and the Preston County Development Authority to discuss the potential for this line. An assessment of the track was performed including necessary upgrades and continual maintenance costs. An inventory of the equipment and rolling stock was also taken. The West Virginia Northern



had no freight traffic and no potential for any future traffic. It was limited in its appeal as a tourist attraction. Although the Development Authority felt this was a good tourist draw the SRA determined in a detailed report that it was not economically feasible to acquire this railroad with state funds. However we supported the Monogahela River Trail Conservancy's petition for reconsideration of the abandonment to review the potential to railbank this corridor for future use as a Rail-to-Trail project.

