

STATE OF WEST VIRGINIA

AUDIT REPORT

OF

***INSURANCE COMMISSIONER
OF WEST VIRGINIA***

FOR THE PERIOD

JULY 1, 1996 - JUNE 30, 1998



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

INSURANCE COMMISSIONER OF WEST VIRGINIA

FOR THE PERIOD

JULY 1, 1996 - JUNE 30, 1998

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd., E.



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

CHARLESTON, WEST VIRGINIA 25305-0610

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the Insurance Commissioner of West Virginia.

Our examination covers the period July 1, 1996 through June 30, 1998. The results of this examination are set forth on the following pages of this report.

Respectfully submitted,

A handwritten signature in cursive script that reads "Theodore L. Shanklin".

Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division

TLS/cal

INSURANCE COMMISSIONER OF WEST VIRGINIA

TABLE OF CONTENTS

Exit Conference 1

Introduction 2

Administrative Officers and Staff 5

Summary of Findings, Recommendations and Responses 6

General Remarks 15

Independent Auditors' Opinion 51

Statement of Cash Receipts, Disbursements and
Changes in Fund Balance 53

Notes to Financial Statements 54

Supplemental Information 56

Certificate of Director,
Legislative Post Audit Division 69

INSURANCE COMMISSIONER OF WEST VIRGINIA

EXIT CONFERENCE

We held an exit conference on October 7, 1999 with the Insurance Commissioner of West Virginia and other representatives of the Commissioner's Office. All findings were reviewed and discussed. The Commissioner's responses are included in bold and italics in the Summary of Findings, Recommendations and Responses and after our findings in the General Remarks section of this report.

INSURANCE COMMISSIONER OF WEST VIRGINIA

INTRODUCTION

The Office of the Insurance Commissioner was first established by the Legislature in 1887, with the State Auditor named ex officio commissioner. In 1947 the Legislature, by special act, established the Office of the Insurance Commissioner as a separate department of State government. This act authorized the Governor to appoint the Insurance Commissioner with the consent and approval of Senate. As of 1957 all appointments are for a term of six years, except in the case of a vacancy where the appointment is for the unexpired term. In 1989 the Insurance Commissioner became a part of the Department of Tax and Revenue.

The Insurance Commissioner is responsible for assuring compliance of Chapter 33 of the West Virginia Code so that consumers, insurance companies and their agents are protected from economic and social losses. The Insurance Commissioner provides services through eight sections. These sections and their respective duties are presented below:

Legal:

1. Provide legal representation to the agency in administrative and court proceedings.
2. Give legal advice to the Commissioner and agency staff.
3. Conduct investigations on errant agents and companies.
4. Assist in promulgation of administrative regulations and enactment of statutes.
5. Coordinate receivership activities.

Financial Conditions:

1. License all insurance companies and other authorized entities.
2. Register purchasing and risk retention groups.
3. Monitor the financial stability and solvency of all admitted entities.
4. Conduct financial examinations.
5. Collect taxes and licensure fees.

Rates and Forms:

1. Make approval/disapproval determinations on policy forms for insurance policies sold in the State.
2. Make approval/disapproval determinations on insurance rates used in this State.
3. Make approval/disapproval determinations on marketing materials used in soliciting insurance policies sold in this State.
4. Conduct surveys and gather statistical data on the companies' claims, loss and rating histories.

Agent's Licensing and Education:

1. Issue licenses and subsequent renewals to all agents and adjusters.
2. Issue clearance letter and certification letters for agents and adjusters.
3. Administer the pre-licensing program.
4. Administer the continuing education program.
5. Collect licensure fees.

Consumer Service:

1. Handle consumer complaints.
2. Provide counseling to consumers and other sectors of the public regarding any insurance inquiries.

3. Conduct informational seminars to community groups throughout the State.
4. Conduct automobile seminars to community groups throughout the State.

Consumer Advocacy:

1. Review all hospital rate increase requests before the Health Care Authority or any court jurisdiction.
2. Review all hospital certificate of need request before the Health Care Authority or any court jurisdiction.
3. Intervene at rate increase and certificate of need administration hearings held before the Health Care Authority.
4. Perform direct monitoring of Health Maintenance Organizations to ensure compliance of quality assurance laws.

Administration:

1. Prepare the annual agency budget for the Commissioner.
2. Serve as the agency's human resources liaison.
3. Coordinate the procurement process for payment of goods and services.
4. Handle all travel arrangements.
5. Coordinate the records management process.

Information Systems:

1. Provide data processing support to the agency.
2. Serve as the focal point for hardware and software strategies.
3. Address short and long range planning of agency data processing needs.
4. Acts as an agency liaison in data processing matters.

INSURANCE COMMISSIONER OF WEST VIRGINIA

ADMINISTRATIVE OFFICERS AND STAFF

JUNE 30, 1998

Hanley C. Clark Insurance Commissioner
Donna Walker Deputy Insurance Commissioner
Martha J. Bradford Administrative Services Director
B. Keith Huffman General Counsel
Jeffrey VanGilder Director of Financial Conditions
Randall Price Assistant Director of Financial Conditions
E. Jane Strother Director of Agents Licensing and Education
Nell Phillips Director of Consumer Advocacy
Thomas Marchio Director of Rates and Forms
Kathleen Beck Director of Consumer Service
John Raines Director of Information Systems

INSURANCE COMMISSIONER OF WEST VIRGINIA

SUMMARY OF FINDINGS, RECOMMENDATIONS, AND RESPONSES

Separation Pay Calculations

1. The Insurance Commissioner's Office calculated separation pay based on procedures set out by the Division of Personnel. We calculated separation pay based on Attorney General's Opinions No. 3, dated August 17, 1998 and No. 37 dated June 27, 1990. The differences between the two methods totaled \$819.48. (See pages 17-19.)

Lack of Effective System of Internal Controls

2. During our post audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code and other rules and regulations, the Insurance Commissioner's Office did not have an effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations. We believe an effective system of internal controls acts to alert management to such noncompliance at an earlier date, thereby allowing more timely corrective action.

Agency's Response

No Response. (See pages 20-22.)

Premium Tax on Federal Flood Insurance

3. The Insurance Commissioner's Office did not consistently collect taxes on Federal Flood Write-Your-Own (WYO) insurance policies written by insurance companies in this State. As a result, the State did not receive approximately \$45,000.00 per calendar year in premium tax revenues during 1997 and 1998. Also, Additional Fire and Casualty Insurance Premium Taxes of approximately \$15,000.00 per calendar year were not collected on WYO policies during 1997 and 1998.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 3, Sections 14, 14a, and 14d of the West Virginia Code, as amended. We also recommend the Office utilize the means available through Chapter 14, Article 1 of the West Virginia Code to recover lost taxes on federal flood premiums.

Agency's Response

. . . The Insurance Commissioner does and will continue to collect state insurance premiums taxes from licensed insurers writing Write-Your-Own federal flood insurance in West Virginia. . . We are preparing an update to our written tax procedures to insure that insurance premiums taxes on federal WYO flood insurance will be timely

collected as permitted under federal law for 1999 and all subsequent years. (See pages 22-29.)

Failure to Deposit in the Correct Fund

4. The Insurance Commissioner's Office made seven deposits totaling \$33,773.51 into the incorrect funds during fiscal years 1997 and 1998. As a result, the State or the intended beneficiaries as designated by statute were deprived of moneys due them.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 3, Section 14d and Chapter 29, Article 3, Section 22 of the West Virginia Code, as amended. Also, we recommend the Commissioner's Office reconcile deposits to amounts recorded in the agency's accounting system.

Agency's Response

. . . We believe the number of human errors and amounts involved (i.e. 5 of the 7 errors were less than \$500) are immaterial. . . . Further, we are in the process of enhancing our data processing system which should facilitate the tax administration system and reduce the likelihood of human input error in the future. (See pages 29-33.)

Examination Assessment Fees

5. The Insurance Commissioner's Office did not collect examination fees totaling approximately \$16,800.00 from accredited reinsurers during fiscal years 1997 and 1998; also, the Commissioner has not collected \$11,550.00 for examination assessment fees owed by six Risk Retention Groups for fiscal years 1996, 1997 and 1998.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 4, Section 15a and Chapter 33, Article 2, Section 9(b)(2) of the West Virginia Code, as amended. We also recommend the Office utilize the means available through Chapter 14, Article 1 of the West Virginia Code to collect all past due examination assessment fees.

Agency's Response

. . . The five (5) entities having Accredited Reinsurer status on July 1, 1996, the six (6) on July 1, 1997, and the sixteen (16) on July 1, 1998, have each been formally notified that the \$1,050 examination fee has not been paid for those prior periods. . . . These risk retention groups have been referred to Legal Division for collection of the delinquent examination assessment fees for 1996, 1997 and 1998. (See pages 33-37.)

Surcharge Collections

6. During fiscal years 1997 and 1998, the Insurance Commissioner's Office billed companies \$5,748.42 for surcharges in excess of amounts reported by companies on their Surcharge Report Forms. By projecting the results to the entire population of surcharge collections, excess billings are approximately \$22,000.00 for the two years tested.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 3, Section 33 of the West Virginia Code, as amended.

Agency's Response

The audits performed by this Office reconcile the gross premium collected amounts required by West Virginia Code §33-3-33 to be reported on the Insurance Premium Surcharge Reporting Form to the net premium written amounts insurers are required to report on their annual financial statement by West Virginia Code §33-4-14.... If the reconciliation indicates that the company reported a gross amount on the Surcharge form less than the net amount reported on its annual statement, the company is billed for the difference.

(See pages 37-39.)

Tax Collections

7. At least \$62,000.00 in taxes were collected from Risk Purchasing Groups during fiscal years 1997 and 1998. However, we were unable to find the statutory authority that permits the collecting of these taxes. Also, tax forms designed by the Insurance Commissioner instruct companies to calculate taxes on a different tax base than what is promulgated by statute.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 32, Section 2 and Chapter 33, Article 3, Sections 14, 14a, and 14d of the West Virginia Code, as amended.

Agency's Response

. . . A new form will be developed and require the Risk Purchasing Group to report only its premium volume and the name of the insuring entity to this Office. . . We will research the effects of amending the premium tax forms to utilize the statutory language. (See pages 39-44.)

Unlicensed Excess Line Brokers

8. We found excess line insurance policies with an approximate premium cost of \$230,000.00 were obtained through unlicensed excess line brokers.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 12, Section 10 of the West Virginia Code.

Agency's Response

. . . We will develop a new audit procedure that will identify all unlicensed insurance companies that report premiums written in the State. Inquiries will be made to request identification of any excess line brokers utilized by these companies in the placement of this business....

(See pages 44-45.)

Erroneous Tax Credit

9. One insurance company was erroneously given a tax credit of \$22,084.00 during fiscal year 1998. An agency employee stated the credit was recorded in error and the mistake was probably an isolated instance.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 3, Section 15 of the West Virginia Code as amended. Also, we recommend the accounting records of the Commissioner be adjusted to reflect the proper amount due from the insurer.

Agency's Response

The Agency's accounting records have been adjusted to properly reflect the amount of annuity taxes reported and due from the insurer for 1997. (See pages 45-47.)

Failure to Follow Purchasing Regulations

10. On 11 occasions for purchases totaling \$22,773.60, the Commissioner's Office avoided bid requirements by splitting purchases among two or more invoices; also, on three occasions for purchases totaling \$7,621.69 the Insurance Commissioner's Office failed to have the required bid documentation.

We recommend the Insurance Commissioner's Office comply with Sections 6.1.2, 6.1.1 and 7.5 of the Department of Administration's Agency Purchasing Manual.

Agency's Response

The first issue addressed concerns splitting purchases on eleven (11) occasions among two or more invoices. This practice has been discontinued since notification by the auditors during the audit that this was not an appropriate practice. . . . (See pages 47-49.)

Payment Before Services Were Rendered

11. Thirty-seven Insurance Commissioner's Office employees were paid approximately \$3,400.00 during fiscal years 1997 and 1998 for time that was not worked nor were the employees on approved leave or holiday time.

We recommend the Insurance Commissioner's Office comply with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended.

Agency's Response

Regarding this matter, we appreciate the auditors bringing to our attention that this is not honored by state law.

(See pages 49-50.)

INSURANCE COMMISSIONER OF WEST VIRGINIA

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the Insurance Commissioner of West Virginia. The audit covered the period July 1, 1996 through June 30, 1998.

GENERAL REVENUE ACCOUNTS

The following accounts were utilized by the Insurance Commissioner of West Virginia solely for depositing taxes, fines and penalties, and examination fees:

<u>Fund Number</u>	<u>Description</u>
0480-508	Insurance Tax
0480-530	Examination Assessment Fees
0480-574	Fire Marshall Tax
0480-584	Fines and Penalties

SPECIAL REVENUE ACCOUNTS

All expenditures required for the general operations of the Insurance Commissioner of West Virginia were made from the following special revenue accounts:

<u>Fund Number</u>	<u>Description</u>
7150-001	Examination Revolving Fund - Personal Services
7150-004	Examination Revolving Fund - Annual Increment
7150-010	Examination Revolving Fund - Employee Benefits

7150-099	.....	Examination Revolving Fund - Unclassified
7150-426	.....	Examination Revolving Fund - Transfers
7150-640	.....	Examination Revolving Fund - Departmental & Misc. Income
7151-001	.....	Consumer Advocate Fund - Personal Services
7151-004	.....	Consumer Advocate Fund-Annual Increment
7151-010	.....	Consumer Advocate Fund - Employee Benefits
7151-099	.....	Consumer Advocate Fund - Classified
7151-640	.....	Consumer Advocate Fund - Departmental & Misc. Income
7152-001	.....	Insurance Commission Fund - Personal Services
7152-004	.....	Insurance Commission Fund - Annual Increment
7152-010	.....	Insurance Commission Fund - Employee Benefits
7152-099	.....	Insurance Commission Fund - Unclassified
7152-319	.....	Insurance Commission Fund - Claims Against the State
7152-426	.....	Insurance Commission Fund - Transfers
7152-640	.....	Insurance Commission Fund - Departmental & Misc. Income

The following special revenue accounts represent funds derived from taxes or surcharges. These revenues are set aside for specific uses as designated by statute:

<u>Fund</u> <u>Number</u>	<u>Description</u>
7155-099	..... Municipal Pension & Protection 1% Additional Tax Fund - Unclassified
7155-640	..... Municipal Pension & Protection 1% Additional Tax Fund - Departmental & Misc. Income
7158-099	..... Fire Protection Fund - Unclassified

7158-640 1% Surcharge Clearing Fund -
 Departmental & Misc. Income
 7160-640 1% Surcharge Clearing Fund -
 Departmental & Misc. Income

COMPLIANCE MATTERS

Chapter 33 and Chapter 29, Article 3, Section 22 of the West Virginia Code generally govern the Insurance Commissioner of West Virginia. We tested applicable sections of the above plus general State regulations and other applicable chapters, articles, and sections of the West Virginia Code as they pertain to fiscal matters. Our findings are listed below.

Separation Pay Calculations

The Insurance Commissioner's Office calculated separation pay for four employees based on procedures set out by the Division of Personnel. We calculated the separation pay based on the Attorney General's Opinions No. 3 dated August 17, 1988, and No. 37 dated June 27, 1990. The following table details the differences between our calculations and the agency's calculations.

<u>Employee</u>	<u>Resignation Date</u>	<u>Agency Pay</u>	<u>Calculated Pay</u>	<u>(Agency Pay Under Calculated Pay)</u>
#1	7/31/96	\$859.61	\$898.44	(\$38.83)
#2	12/31/96	\$6,738.47	\$7,396.74	(\$658.27)
#3	9/05/97	\$1,643.54	\$1,722.18	(\$78.64)
#4	04/01/97	<u>\$7,165.16</u>	<u>\$7,208.90</u>	<u>(\$43.74)</u>
	Totals	<u>\$16,406.78</u>	<u>\$17,226.26</u>	<u>(\$819.48)</u>

Chapter 5, Article 5, Section 3 of the West Virginia Code, as amended, states in part:

" . . .The lump sum payment shall be made by the time of what would have been the employee's next regular pay day had his employment continued. **In determining the amount of annual leave entitlement, weekends, holidays or other periods of normal, non-countable time shall be excluded, . . ."** (Emphasis added).

The Attorney General's Opinion No. 3, dated August 17, 1988, concerning Chapter 5, Article 5, Section 3 of the West Virginia Code, states in part:

" . . .Thus, although an eligible employee will not be remaining on the payroll, but instead will be electing and exercising his option to lump sum payment; nevertheless, the calendar month of the date of his last day on the payroll and/or subsequent calendar months must be used to determine the countable days against which his accrued annual leave days are applied and credited and the full month's salary for which he is entitled, such is to be computed by first **striking from consideration as excludable, the aforesaid weekend days, holidays, or other non-countable time,** and thereafter determining the fractional part of the monthly salary which is to constitute such lump sum payment, with the numerator thereof being the accrued leave days of an employee remaining and applicable in such month and the denominator thereof being the countable days of such month remaining after the aforesaid exclusions . . . " (Emphasis added).

The Attorney General's Opinion No. 37 dated June 27, 1990, concerning Chapter 5, Article 5, Section 2 of the West Virginia Code, states in part:

"Entitlement to accrued pro rata share of increase owing on final day of employment. - Considering that this section's incremental increase constitutes part of an eligible state employee's regular pay for services previously rendered, any such employee has a statutory right to any accrued pro rata share of that increment owing but not due on his final day of employment. By entitlement to a pro rata share, it is meant that **an employee who does not work an entire fiscal year is entitled to a fractional portion of the total increment to which the employee would have been entitled had he been employed during the entire fiscal year. . . .**" (Emphasis added).

The differences were primarily due to the method used by the Insurance Commissioner's Office to calculate terminating employees' lump sum payments for accrued annual leave and pro rata increment. According to an agency employee, the Division of Personnel instructed the agency on the method to use in calculating employees' separation pay. This method, however, does not give the employees credit for holidays in determining the countable days to which annual leave is applied. Also, pro rata increment payments for one employee were based on the terminating employee's last full incremental payment instead of a pro rata share of what the employee would have received had he remained on the payroll the entire year.

This is not a problem unique to this agency. This is a statewide problem because spending units under the control of the Division of Personal do not consider the aforementioned Attorney General's Opinions for calculating separation pay.

Lack of Effective System of Internal Controls

During the course of our post audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code and other rules and regulations which governed the Insurance Commissioner of West Virginia, the Commissioner's Office did not have an effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations.

Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended, states in part:

"The head of each agency shall: . . .
(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities. . . ."

This law requires the agency head to have in place an effective system of internal controls in the form of policies and procedures set up to ensure the agency operates in compliance with the laws, rules and regulations which govern it.

During our audit of the Insurance Commissioner's Office we found the following violations of State laws or other rules and regulations: **(1)** Taxes of approximately \$60,000.00 per calendar year were not collected on federal flood insurance policies written by insurance companies in this State; **(2)** Seven instances where receipts totaling \$31,773.51 were deposited into the incorrect fund; **(3)** Examination fees totaling approximately \$16,800.00 were

not collected from accredited reinsurers during fiscal years 1997 and 1998; also, the Insurance Commissioner's Office has not collected \$11,550.00 for examination assessment fees owed by six Risk Retention Groups for fiscal years 1996, 1997, and 1998; (4) During fiscal years 1997 and 1998, companies were billed \$5,748.42 for surcharges in excess of amounts reported by the company on their surcharge report form; (5) We were unable to find statutory authority permitting the collection of at least \$62,000.00 during fiscal years 1997 and 1998 from Risk Purchasing groups; (6) Approximately \$230,000.00 of premiums were procured by unlicensed excess line brokers; (7) An insurance company was erroneously given a tax credit of \$22,084.00; (8) On 11 occasions for purchases totaling \$22,773.60, the Commissioner's Office avoided bid requirements by splitting purchases among two or more invoices, also on three occasions for purchases totaling \$7,621.69 the Insurance Commissioner's Office failed to have the required bid documentation; (9) Thirty-seven employees were paid approximately \$3,400.00 for time that was not worked nor was it approved leave or holiday time.

We believe, if the Insurance Commissioner's Office had an effective system of internal controls in place, management would have been aware of noncompliance with the West Virginia Code at an earlier date and would have been able to take corrective action in a more timely fashion. The following pages of this report contain

additional information regarding the specific noncompliance with the West Virginia Code which came to our attention.

Premium Tax on Federal Flood Insurance

The Insurance Commissioner's Office did not consistently collect premium tax on Federal Flood Write-Your-Own(WYO) insurance policies written by insurance companies in West Virginia. As a result, the State did not receive approximately \$45,000.00 per calendar year in premium tax revenues for 1997 and 1998. Necessary documentation was not available to estimate lost tax revenues for years prior to calendar year 1997.

West Virginia licensed insurance companies participating in the WYO Program sell and service federal flood insurance policies in their own names, while the federal government retains responsibility for underwriting losses. According to records provided by the Insurance Commissioner's Office for calendar years 1997 and 1998, 29 companies reported approximately \$5.3 million per calendar year for WYO federal food insurance policies sold in this state.

The Code of Federal Regulations Title 44, Chapter I, Subchapter B, Part 62, Appendix A, Article III, as amended, which governs the WYO program, states in part:

"A. The Company shall be liable for operating, administrative and production expenses, **including any State premium taxes, . . .**"
(Emphasis added).

Chapter 33, Article 3, Section 14 of the West Virginia Code, as amended, states in part:

"Every insurer transacting insurance in West Virginia shall . . . **make a premium tax return** for the previous calendar year . . . The tax is the sum equal to two percent of the gross direct premiums, including dividends, by whatever name called, on participating policies applied in reduction of premiums, less premiums returned to policyholders because of cancellation of policies, and also includes any additional tax due under section fourteen-a{§ 33-3-14a} of this article. . . ." **(Emphasis added)**.

Chapter 33, Article 3, Section 14a of the West Virginia Code, as amended, states in part:

"For the purpose of providing additional revenue for the state general revenue fund, there is hereby levied and imposed, in addition to the taxes imposed by section fourteen [§ 33-3-14] of this article, an **additional premium tax** equal to one percent of such gross direct premiums . . ." **(Emphasis added)**.

We also noted additional fire and casualty insurance premium taxes of approximately \$15,000.00 per calendar year were not collected on WYO policies during 1997 and 1998. Additional fire and casualty insurance premium taxes are deposited in the Municipal Pensions and Protection special revenue fund (7155).

Chapter 33, Article 3, Section 14d of the West Virginia Code, as amended, states in part:

". . . there is hereby levied and imposed an **additional premium tax** equal to one percent of

gross direct premiums collected . . ."
(Emphasis added).

We were told by agency personnel that it has been the Commissioner's longstanding position (since before 1990) that WYO federal flood premiums are exempted from State premium taxes by federal law. Furthermore, we noted the Commissioner's Office granted credits to companies that remitted taxes for WYO federal flood premiums.

After our inquiry in this matter, the Insurance Commissioner's Office conducted its own research and concluded that WYO federal flood premiums should be included in the premium tax base. As a result, we were told by an agency employee the Office will begin collecting taxes on all WYO policies.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 3, Sections 14, 14a, and 14d of the West Virginia Code, as amended. We also recommend the Office utilize the means available through Chapter 14, Article 1 of the West Virginia Code to recover lost taxes on federal flood premiums.

Agency's Response

The issue of the state taxation of federal flood insurance program is a complicated issue and admittedly there was some confusion by this Office during the period of the legislative audit. Because of this confusion, we did seek a legal determination confirming that state insurance premium taxes were due from

licensed insurers writing Write-Your-Own flood insurance premiums in West Virginia. The Insurance Commissioner does and will continue to collect state insurance premiums taxes from licensed insurers writing Write-Your-Own federal flood insurance in West Virginia.

The confusion principally arose concerning the issue of federal flood insurance issued by the federal government and the corollary federal flood insurance program which is made available through a Write-Your-Own (WYO) Program through licensed insurance companies pursuant to federal law. When the National Flood Insurance Program (NFIP) began in 1968, the Federal Insurance Administration (FIA) issued all policies directly. 42U.S.C. §§ 4001 et seq. This program was not subject to state taxation. Believing that private insurers could sell more insurance and administer it more easily than the federal government, FIA began the WYO Program in 1983. 42U.S.C. §4071; 44C.F.R. §62.23. WYO policies are issued by an insurance company under its own company name but with terms maximum limits, underwriting guidelines and premiums dictated by FIA and identical to direct NFIP policies in the same flood region. 44C.F.R. §62.23. The WYO Program is largely excluded from state insurance regulation, i.e. no rate approval or policy form approval.

We take specific exception to the assertion on page fifteen of the Report which states, "We were told by agency personnel that it has been the Commissioner's longstanding position (since before 1990) that WYO federal flood premiums are exempted from State premium taxes by federal law." (Emphasis supplied) We would clarify that it was the long standing position that federal flood insurance premiums directly written and exclusively administered by the federal government are exempt from State premium taxes and state insurance regulation under the Supremacy Clause of the United states Constitution since the federal government did not authorize the states to tax this part of the federal program.

An internal audit for calendar year 1997 revealed that 25 out of 27 insurance companies reporting federal flood insurance premiums written in West Virginia paid insurance premium taxes on the federal flood insurance premiums. Our internal audit found that only \$38,230.37 of 1997 insurance premium taxes were not collected from two insurance companies. We have commenced efforts to collect the delinquent state premium taxes on the two companies which failed to pay insurance premium taxes in 1997 and subsequent tax periods.

Further, our review indicates that fifteen of the twenty-seven companies reporting federal WYO flood premiums for calendar

year 1997 paid the one percent additional premium tax. The several companies which failed to pay state insurance premium taxes are being issued delinquent letters for outstanding premium taxes due the State of West Virginia. The reason that some additional taxes were not paid was likely due to the fact that the additional premium tax reporting form was not amended to include the new line for federal flood insurance, which first appeared on the 1997 annual statement. This tax form will be amended for year-end 1999 taxes and subsequent periods.

Additionally, since inception of the one percent policy surcharge on fire and casualty insurance policies in 1992, the Insurance Commissioner has collected taxes due under Chapter 33, Article 3, Section 33 of the West Virginia Code for federal flood insurance premiums, notwithstanding objections from insurers and the Federal Flood Administration.

We submit that this Office has collected the majority of the state insurance premium taxes due on the Write-Your-Own (WYO) federal flood insurance policies written by insurance companies in West Virginia.

On page 15 of the Preliminary Draft, the Legislative Auditor noted that "the Commissioner granted refunds or credits to companies that remitted taxes for WYO federal flood premiums." Our internal audit revealed that no refunds were requested or granted

to insurers for premium taxes paid on federal flood insurance premiums during calendar years 1996, 1997 or 1998. In addition, although there may have been several credits incorrectly entered into the accounting tax system in 1997 and 1998, for several insurance companies, these companies never claimed the credit by offsetting it against future tax liability; nor has any state monies been refunded. Our accounting records have been corrected for 1997 and 1998 in all instances where a credit was erroneously entered into the accounting system with respect to federal flood insurance premiums.

The Report does not indicate that prior to 1997, companies were not required to separately report federal flood insurance premiums on their statutory financial statements filed with this Office. The Report provides on page 14 that, "Necessary documentation was not available to estimate lost tax revenues for years prior to calendar year 1997." This statement assumes that federal flood insurance premiums were excluded from the reported premiums. We have reviewed each 1996 insurance premium tax returns for the insurance companies which reported federal flood insurance premiums in 1997 and 1998. Every insurance company reported and paid insurance premium taxes on 100% of the amount reported under "allied lines" or as an aggregate write-in on the State Page of the Annual Statement.

West Virginia Code §33-4-14 requires licensed insurers to file financial statements according to the National Association of Insurance Commissioners' Annual Statement Instructions and the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual, as amended. These instructions were amended to require federal flood insurance premiums to be segregated and reported on line 2.3, page 15 of the annual statement beginning with calendar year 1997 and all subsequent years. Prior to 1997, the amount of federal flood insurance premiums written by licensed insurance companies was reported under Allied Lines or as an Aggregate Write-In on the state page. Unless specifically excluded on the premium tax forms, it was most likely included as part of the total taxable premiums.

We are preparing an update to our written tax procedures to insure that insurance premiums taxes on federal WYO flood insurance will be timely collected as permitted under federal law for 1999 and all subsequent years.

Failure to Deposit in the Correct Fund

During fiscal years 1998 and 1997, six Additional Fire and Casualty Premium Tax receipts were deposited into the incorrect funds. Five of these receipts totaling \$30,825.38 were incorrectly deposited into the State General Revenue Fund (0480). The other receipt was for \$498.00; of which \$249.00 was deposited into the

Fire Protection Fund (7158) and \$249.00 was deposited into the Teacher's Retirement Board Reserve Fund (2604).

Chapter 33, Article 3, Section 14d of the West Virginia Code, as amended, which governs the Additional Fire & Casualty Premium Tax, states in part:

" . . . All moneys collected from this additional tax shall be received by the commissioner and paid by him into a special account in the state treasury, designated the **municipal pensions and protection fund. . . .**"
(Emphasis added).

Also we found one instance where \$450.13 remitted for Fire Marshal Taxes during fiscal year 1997 was erroneously deposited in the Insurance Commission Fund (7152).

Chapter 29, Article 3, Section 22 of the West Virginia Code, as amended, which governs the Fire Marshal Tax, states in part:

" . . . The money so received by the state insurance commissioner shall be paid by him into the treasury and credited to the **state general revenue fund. . . .**" (Emphasis added).

These deposit errors deprived the State or the intended beneficiaries as designated by statute moneys due them. According to agency personnel, the depositing errors were caused by either incorrect receipt coding or from clerical errors when checks were entered on the deposit ledgers. We were told the corrections were made.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 3, Section 14d and Chapter 29, Article 3, Section 22 of the West Virginia Code, as amended. Also, we recommend the Commissioner's Office reconcile deposits to amounts recorded in the agency's accounting system.

Agency's Response

During the two year period covered by the Report, a total of seven errors in a largely manual data entry system "either by incorrect receipt coding or from clerical errors" were discovered. The respective dollar amount of the seven errors were as follows: \$10.14; \$29.00; \$180.00; \$450.13; \$490.00; \$1,887.00; and \$28,719.24.

During the Audit period, this Office manually processed approximately \$208 Million Dollars in revenue and about 38,000 insurance premium tax returns. The insurance premium tax data entry onto the mainframe accounting system and the audit function are primarily performed by two tax audit clerks. A separate data entry function concerns the creation of the deposit ledger for deposit of the revenue collections into the appropriate state funds. The manual data entry into the deposit ledger spreadsheet, which contains 21 columns of numeric information, is performed by office assistants.

We believe the number of human errors and amounts involved (i.e. 5 of the 7 errors were less than \$500) are immaterial. The dollar amount represented by the errors amounts to 1/100th of one percent of the total revenue collections during the period of the audit. Overall these human errors do not indicate disregard or noncompliance with the law and we respectfully request that this finding be stricken from the Final Report. Additionally, each of the seven errors identified in the Audit were promptly corrected so no intended beneficiaries as designated by statute have been deprived of moneys due them.

The Report omits the fact that the tax audit clerks in the normal performance of their auditing functions regularly discover and correct these types of human errors. The Report also omits that when errors are discovered and verified, the accounting records maintained by this Agency are promptly corrected and inter-governmental transfers (IGTs) are prepared transferring the monies to the appropriate state government funds.

We recognize that the creation and design of an effective computerized accounting system with built in cross-checks could further improve the accuracy of our tax accounting records and deposit ledgers. In the meantime, we have added an additional manual audit procedure in the preparation of the deposit ledgers to

ensure that amounts are recorded in the appropriate deposit ledger spreadsheet columns.

In conclusion, this Agency does comply with Chapter 33, Article 3, Section 14d and Chapter 29, Article 3, Section 22 of the West Virginia Code, as amended. Further, we are in the process of enhancing our data processing system which should facilitate the tax administration system and reduce the likelihood of human input error in the future.

Examination Assessment Fees

The Insurance Commissioner's Office failed to collect examination assessment fees from Accredited Reinsurers. As a result, the State General Revenue Fund (0480) and the Examination Revolving Fund (7150) did not receive approximately \$5,600.00 and \$11,200.00, respectively, in revenues for fiscal years 1997 and 1998. We were told by an employee of the agency that due to an oversight, Accredited Reinsurers have not been billed for Examination Assessment Fees.

Chapter 33, Article 4, Section 15a of the West Virginia Code, as amended, states in part:

"(a) For purposes of this section, an **"accredited reinsurer"** is one which: . . . (4) Has filed with the application a certified statement that the company submits to the examination authority granted the commissioner by section nine [\$33-2-9], article two of this chapter and **will pay all examination costs and**

fees as required by that section." (Emphasis added) .

Also, the Commissioner's Office is not collecting examination assessment fees owed by six Risk Retention Groups for fiscal years 1996, 1997 and 1998. This has resulted in the State General Revenue Fund (0480) and the Examination Revolving Fund (7150) not receiving revenues totaling \$3,850.00 and \$7,700.00, respectively. We were unable to determine the reason examination assessment fees have not been collected from these groups.

Chapter 33, Article 2, Section 9(b)(2) of the West Virginia Code, as amended, states in part:

"Company" or "insurance company" means any person engaging in or proposing or attempted to engage in any transaction or kind of insurance or surety business and any person or group or persons who may otherwise be subject to the administrative, regulatory or taxing authority of the commissioner, including but not limited to . . . risk retention group or other reinsurer regardless of the type coverage written . . ." (Emphasis added).

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 4, Section 15a and Chapter 33, Article 2, Section 9(b)(2) of the West Virginia Code, as amended. We also recommend the Office utilize the means available through Chapter 14, Article 1 of the West Virginia Code to collect all past due examination assessment fees.

Agency's Response

The first issue under this section of the Report concerns the collection of the annual examination assessment fee from Accredited Reinsurers. The Report correctly indicates that, prior to 1999, this Agency had inadvertently not collected the examination assessment fee from accredited reinsurers. Accredited Reinsurers are not expressly listed as an "insurance company" subject to the examination assessment fee under the provisions of West Virginia Code §33-2-9(b) (2). They are however made subject to the examination assessment fees pursuant to West Virginia Code §33-4-15a(a) (4). We respectfully submit that it was an oversight to not annually assess the examination assessment fee on these newly created entities as they received accredited status in West Virginia. It should be noted that over 99% of the examination assessment fees due from insurance companies was collected during the period of this Legislative Audit.

The Examination Assessment Fee due July 1, 1999, has been collected from each of the 18 Accredited Reinsurers approved to operate in West Virginia. On or before July 1, 1995, there were no Accredited Reinsurers approved in West Virginia. The five (5) entities having Accredited Reinsurers status on July 1, 1996, the six (6) on July 1, 1997, and the sixteen (16) on July 1, 1998, have each been formally notified that the \$1,050 examination fee has not been paid for those prior periods. Failure to remit the outstanding

examination assessment fees would constitute grounds for revocation of an assuming reinsurer's accreditation status. See W.Va. Code §33-4-15a(b).

The second issue concerns the collection of the examination assessment fees from risk retention groups. The examination fees are collected annually from the majority of the thirty registered risk retention groups authorized to do business in West Virginia. Each year several of these risk retention groups refuse to pay the examination fee citing federal pre-emption issues or state law issues. After numerous demand letters four Risk Retention Groups in each year refused to pay the examination assessment fee due for 1996, 1997 and 1998. These risk retention groups have been referred to Legal Division for collection of the Delinquent examination assessment fees for 1996, 1997 and 1998.

Risk Retention Groups are entities created pursuant to federal law. The Liability Risk Retention Act of 1986 (LIRA), Public Law 1993, chapter 40, is the federal statute which establishes the authority of the chartering state to regulate the formation and operation of risk retention groups. The LIRA provides generally that risk retention groups are exempt from the laws of non-chartered states, with a list of exceptions that delimit the powers retained by the states. Federal law significantly restricts the state insurance regulation of non-chartered risk retention

groups. See 15 U.S.C. §3902; see also W.Va. Code §33-32-8. There remain significant unresolved federal and state legal issues whether West Virginia may assess the examination assessment fee on Risk Retention Groups not chartered in this state.

This Agency has been diligent in the collection of the examination assessment fee from the more than one thousand two hundred and fifty insurance companies subject to the fee.

Surcharge Collections

In conformity with the West Virginia Code, the Insurance Premium Surcharge Report form developed by the Insurance Commissioner's Office instructs companies to Report and remit one-percent of premium collections for fire and casualty insurance policies. However, the Commissioner's Office audits surcharges remitted by insurance companies based on one-percent of premiums written by insurance companies instead of premiums collected. When surcharges remitted are less than the Commissioner's Office audited amounts, the Office bills the company for the difference.

Chapter 33, Article 3, Section 33 of the West Virginia Code, as amended, states in part:

"(a)For the purpose of providing additional revenue for volunteer and part volunteer fire departments, certain retired teachers and the teacher's retirement reserve fund, there is hereby authorized and imposed on and after the first day of July, one thousand nine hundred ninety two, on the policyholder of any fire and casualty insurance policy, a policy surcharge equal to one percent of gross direct

premiums paid by the policyholder for each such policy...." (Emphasis added).

During fiscal years 1997 and 1998, we noted 15 instances where the Insurance Commissioner's Office billed insurance companies a total of \$5,748.42 for surcharges in excess of amounts reported by the company on their surcharge report form. By projecting the results of our test to the entire population of surcharge collections, excess billings are approximately \$22,000.00 for the two years tested.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 3, Section 33 of the West Virginia Code, as amended.

Agency's Response

This section of the Report provides that "...we noted 15 instances where the Insurance Commissioner billed insurance companies a total of \$5,748.42 for surcharges not authorized by statute. By projecting the results of our test to the entire population of surcharge collections, unauthorized billings are approximately \$22,000.00 for the two years tested." This section of the Report does not fully describe the issues involved with collection of the one percent policyholder surcharge or explain why the audits performed by this Office are based upon one-percent of net premiums written for fire insurance and casualty insurance policies.

The audits performed by this Office reconcile the gross premium collected amounts required by West Virginia Code §33-3-33 to be reported on the Insurance Premium Surcharge Reporting Form to the net premium written amounts insurers are required to report on their annual financial statement by West Virginia Code §33-4-14. This is the only audit process available to this Office other than physically examining the books and records of each licensed property and casualty insurer. If the reconciliation indicates that the company reported a gross amount on the Surcharge form less than the net amount reported on its annual financial statement, the company is billed for the difference. The company may then explain why the gross amount is less than the net amount or remit the amounts billed. If the company provides a written explanation of the difference, the audited amount is not collected. We are not aware of any companies which have remitted surcharge amounts not due the State. This section of the Report does not indicate that approximately \$26 million dollars of surcharge was collected during the two years tested, nor that the projected "unauthorized" amounts are equal to less than 9 one hundredths of one percent of the total surcharge amounts collected.

Tax Collections

The Insurance Commissioner's Office is collecting premium, excess lines, and risk retention taxes from Risk

Purchasing Groups. However, we were unable to find any statutory authority that permits the collection of these taxes. According to the Commissioner's Office receipt ledgers, at least \$62,000.00 was collected from Risk Purchasing Groups during fiscal years 1997 and 1998. We were unable to determine the total amount collected during the period due to the Office's method of recording some Risk Purchasing Group receipts.

Chapter 33, Article 32, Section 2 of the West Virginia Code, as amended, states in part:

" . . . (j) "Purchasing group" means any group which: (1) has as one of its purposes the **purchase of liability insurance** on a group basis; (2) Purchases such insurance only for its group members and only to cover their similar or related liability exposure, . . ."
(Emphasis added).

The Insurance Commissioner's Office requires Risk Purchasing Groups registered to conduct business in West Virginia to file a Statement of Premiums and Taxes by Placement Form. This Statement instructs purchasing groups to pay taxes on premiums written for its group members if they are aware taxes have not been paid by the insurance company, excess lines broker, risk retention group, or any other source, from whom insurance coverage is obtained.

We were told by an agency employee that tax collections made from Risk Purchasing Groups are made as a "catch all". To explain further, the purpose of these collections is to prevent the

avoidance of tax for those entities providing insurance coverage for these groups.

Also, directions for completing tax returns state that insurance companies are to apply tax rates to those premiums written in West Virginia. However, the West Virginia Code requires that tax rates be applied to premiums collected by insurance companies. Although taxes computed by an insurer using each method would likely result in differences, we were unable to determine the amount of these differences since tax forms filed with the insurance commissioner do not show premium collections.

Chapter 33, Article 3, Section 14, as amended, of the West Virginia Code states in part:

" . . . Such insurer shall also . . . make a premium tax return for the previous calendar year, on a form prescribed by the commissioner showing the gross amount of direct premiums (whether designated as a premium or by some other name) **collected and received** by it during the previous calendar year . . . and compute the amount of premium tax chargeable to it in accordance with the provisions of this article, . . . " (**Emphasis added**).

Chapter 33, Article 3, Section 14a of the West Virginia Code, as amended, states in part:

" . . . there is hereby levied and imposed, in addition to the taxes imposed by section fourteen [§33-3-14] of this article, an additional premium tax equal to one percent of such gross direct premiums . . . Except as otherwise provided in this section, **all provisions of this article relating to the levy, imposition and collection of the regular premium tax shall be applicable to the levy,**

imposition and collection of such additional tax. . . ." (Emphasis added).

Chapter 33, Article 3, Section 14d of the West Virginia State Code, as amended, states in part:

". . . there is hereby levied and imposed. . . an additional premium tax equal to one percent of gross direct premiums collected, . . . " (Emphasis added).

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 32, Section 2 and Chapter 33, Article 3, Sections 14, 14a, and 14d of the West Virginia Code, as amended.

Agency's Response

The first issue in this section of the Report is the finding that "(t)he Insurance Commissioner is collecting premium, excess lines and risk retention taxes from Risk Purchasing Groups. However, we were unable to find any statutory authority that permits the collection of these taxes."

Federal law allows Risk Purchasing Groups to procure insurance coverages for West Virginia members from insurance entities not licensed or registered in this State. The Risk Purchasing Group Statement of Premiums and Taxes was developed by this Office in an attempt to have Risk Purchasing Groups collect and remit the taxes due the State of West Virginia from unlicensed or unregistered entities from which the group was procuring insurance for its West Virginia members.

A new form will be developed and require the Risk

Purchasing Group to report only its premium volume and the name of the insuring entity to this Office. This Office will develop alternative procedures to attempt to collect taxes due the State from unlicensed entities which sell insurance to the West Virginia members of Risk Purchasing Groups.

The second issue in this section of the Report is the conclusion that states, "Also, directions for completing tax returns state that insurance companies are to apply tax rates to those premiums written in West Virginia. However, the West Virginia Code requires that the tax rates be applied to premiums collected by insurance companies. Although taxes computed by an insurer using each method would likely result in differences, we were unable to determine the amount of these differences since tax forms file with the insurance commissioner do not show premium collections."

We realize that there may be semantical differences between the statutory language and the insurance accounting language utilized on the tax returns. We assert however that there is no difference between the tax amounts collected and that intended to be collected by the Legislature when the statutory language was written. The accounting practices and procedures utilized to develop the amounts reported on the tax returns are required by West Virginia Code §33-4-14 and are relied upon by all

states which levy insurance premium taxes to determine their insurance premium tax base. We will research the effects of amending the premium tax forms to utilize the statutory language.

Unlicensed Excess Line Brokers

We found excess line insurance policies with an approximate premium cost of \$230,000.00 were obtained through unlicensed excess line brokers. According to documents we examined, at least eight policies were procured by unlicensed brokers with initial effective dates of the policies ranging from April 1, 1994 through June 1, 1997.

Chapter 33, Article 12, Section 10 of the West Virginia Code states in part:

"Any portion or all of an insurance coverage against loss or damage to property or person from any cause which cannot be procured from licensed insurers, which coverages are hereinafter designated as "excess line," may be procured from unlicensed insurers subject to the following conditions:

(a) **The insurance must be procured only through a licensed excess line broker. . . ."**
(Emphasis added).

The Insurance Commissioner's Office does not have a procedure of identifying unlicensed excess line brokers conducting business in this State. As a result, we are unable to determine the extent of policies procured by unlicensed excess line brokers and, consequently, the losses due to uncollected excess lines tax.

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 12, Section 10 of the West Virginia Code.

Agency's Response

This section of the Report indicates that insurance is obtained from unlicensed excess line brokers. It indicated that this Office does not have procedure to identify unlicensed excess line brokers and recommends that this Office develop such a procedure.

One procedure this Office has utilized to identify unlicensed excess line brokers was the Risk Purchasing Group Statement of Premiums and taxes. We will continue to utilize the new Risk Purchasing Group Premium Volume Reporting Form.

We will develop a new audit procedure that will identify all unlicensed insurance companies that report premiums written in the State. Inquiries will be made to request identification of any excess line brokers utilized by these companies in the placement of this business.

Beyond these actions, this Office does not see any other way of identifying unlicensed excess line brokers without enactment of substantial new legislation.

Erroneous Tax Credit

One insurance company was erroneously given a tax credit of \$22,084.00 during fiscal year 1998. An agency employee stated the credit was recorded in error and the mistake was probably an isolated instance.

Chapter 33, Article 3, Section 15 of the West Virginia

Code, as amended, states in part:

"(a)Every life insurer transacting insurance in West Virginia shall make a return to the commissioner annually on a form prescribed by the commissioner, on or before the first day of March, under the oath of its president or secretary, of the gross amount of annuity considerations collected and received by it during the previous calendar . . . All the taxes received by the commissioner shall be paid into the insurance tax fund . . ."

We recommend the Insurance Commissioner's Office comply with Chapter 33, Article 3, Section 15 of the West Virginia Code as amended. Also, we recommend the accounting records of the Commissioner be adjusted to reflect the proper amount due from the insurer.

Agency's Response

We agree with the finding that an insurer "was erroneously given a tax credit of \$22,084.00 during fiscal year 1998." With respect to this matter, no tax credit was claimed by the insurer and there had been no refund issued by this Office. The Agency's accounting records have been adjusted to properly reflect the amount of annuity taxes reported and due from the insurer for 1997.

Upon confirmation of an error, it is our procedure to promptly adjust the accounting records to reflect the proper amount of taxes due from an insurer. A written procedure has been adopted that before a tax credit greater than \$500 can be entered into the

accounting system, the tax credit must be separately reviewed and authorized in writing by the Tax Auditor Clerk Supervisor. In addition, it is our established procedure that any refund of state insurance premium taxes or fees must be authorized in writing by the Tax Audit Clerk Supervisor.

We believe that a single isolated incident is not indicative of non-compliance and we respectfully request that the inference that we do not comply with W.Va. Code §33-3-15 be stricken from the Report. This Agency complies with Chapter 33, Article 3, Section 15 of the West Virginia Code.

Failure to Follow Purchasing Regulations

During July 1, 1996 through January 18, 1999, the Insurance Commissioner's Office avoided the Department of Administration's bid requirements on 11 occasions by splitting purchases exceeding \$1,000.00 each among two or more invoices. These 11 purchases totaled \$22,773.60. Also, during the same period, the Commissioner's Office failed to have the required bid documentation for three purchases exceeding \$1,000.00 each. These three purchases totaled \$7,621.69.

Section 6.1.2 of the Department of Administration's Agency Purchasing Manual states in part:

"1,001 to \$5,000: A minimum of three (3) verbal bids shall be obtained when possible. Document and record all bids for public record...."

Competitive bidding is the foundation of public purchasing for State agencies. This process provides for the determination of the best buy for the needed commodity or service.

We were told by an agency employee that there were times when purchases were split on two or more invoices if the purchases exceeded \$1,000.00. The employee also stated that the agency sometimes attempted to solicit bids but only one vendor provided the service or commodity. However, no documentation was made available to us indicating the vendors supplying the commodities or services noted above were sole source providers.

We recommend the Insurance Commissioner's Office comply with Sections 6.1.2, 6.1.1 and 7.5 of the Department of Administration's Agency Purchasing Manual.

Agency's Response

The first issue addressed concerns splitting purchases on eleven(11) occasions among two or more invoices. This practice has been discontinued since notification by the auditors during the audit that this was not an appropriate practice.

The second issue notes that this agency failed to have the required bid documentation for three (3) purchases exceeding \$1,000 each. It is impossible for us to address this matter since the three specific instances have never been pointed out to staff. We cannot unequivocally deny or confirm that we do not have the required bid documentation when we don't know to which instances

the auditors refer. Approximately eighty (80) bids were done for the period of time audited. The fact that bid documentation was presumably not found for only three instances out of eighty is commendable.

Payment Before Services Were Rendered

According to the Insurance Commissioner's Office, Employee Attendance Reports (time records) for fiscal years 1997 and 1998, 37 employees were paid for 192 hours that were not worked nor were the employees on approved leave or holiday time. The cost to the Commissioner's Office in salaries and benefits for this time was approximately \$3,200.00 and \$200.00 for fiscal years 1997 and 1998, respectively, for a total approximate cost of \$3,400.00.

Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended, states:

"No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered."

According to an agency employee, all but twenty hours of the paid time off was granted by the Commissioner as a gift so employees could have either all day off the day before Christmas or all day off the day before New Year's Day without charging annual or sick leave. The employee added that all employees of the Insurance Commissioner's Office received this gift, however, not every section of the Office recorded this time on their Employee Attendance Reports. Our calculations include only those hours documented.

Also, we were told that 12 hours of this paid time off was worked and was documented incorrectly on the Employee Attendance Reports. The employee added the remaining eight hours should have been charged to the appropriate employees' annual leave.

We recommend the Insurance Commissioner's Office comply with Chapter 12, Article 3, Section 13 of the West Virginia Code, as amended.

Agency's Response

Regarding this matter, we appreciated the auditors bringing to our attention that this is not honored by state law.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of cash receipts, disbursements and changes in cash balance of the Insurance Commissioner of West Virginia for the years ended June 30, 1998 and June 30, 1997. The financial statement is the responsibility of the management of the Insurance Commissioner of West Virginia. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

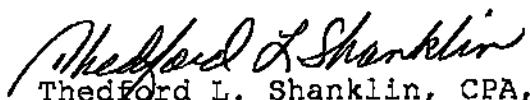
As described in Note A, the financial statement was prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues collected and expenses paid of the Insurance Commissioner of West Virginia for the years ended June 30, 1998 and June 30, 1997 on the bases of accounting in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for purposes of additional analysis and is not a required part of the basic financial statement.

Such information has been subjected to the auditing procedures applied in the audit of the basic financial statement and, in our opinion, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectively submitted,


Theodora L. Shanklin, CPA, Director
Legislative Post Audit Division

June 1, 1999

Auditors: Ethelbert Scott, Jr., Acting Supervisor
Stanley D. Lynch, CPA, Auditor-in-Charge
Peter J. Maruish, CPA
Noah E. Cochran, CPA
Rhonda L. Combs

INSURANCE COMMISSIONER OF WEST VIRGINIA
 STATEMENT OF CASH RECEIPTS, DISBURSEMENTS
 AND CHANGES IN CASH BALANCE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
Cash Receipts:		
Fees, Licenses and Other Income	\$4,824,716.38	\$4,580,882.34
Disbursements:		
Personal Services	1,692,470.25	1,740,648.31
Annual Increment	26,700.00	25,504.03
Employee Benefits	509,773.24	485,467.32
Current Expenses	765,357.05	764,797.90
Repairs and Alterations	8,967.45	3,596.35
Equipment	190,020.38	139,609.29
Other Extraordinary Disbursements	<u>0.00</u>	<u>7,372.42</u>
	<u>3,193,288.37</u>	<u>3,166,995.62</u>
 Cash Receipts Over Disbursements	 1,631,428.01	 1,413,886.72
 Beginning Balance	 4,344,651.02	 4,017,426.30
 Transfers to State General Revenue Fund	 <u>(1,397,149.00)</u>	 <u>(1,086,662.00)</u>
 Ending Balance	 <u>\$4,578,930.03</u>	 <u>\$4,344,651.02</u>

See Notes to Financial Statements

INSURANCE COMMISSIONER OF WEST VIRGINIA

NOTES TO FINANCIAL STATEMENTS

Note A - Accounting Policies

Accounting Method: The cash basis of accounting is followed. Therefore, certain revenue and related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

Note B - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employees' contributions are 4.5% of their annual compensation and employees have vested rights under certain circumstances. The Insurance Commissioner of West Virginia matches contributions at 9.5% of the compensation on which the employees made contributions. The Insurance Commissioner of West Virginia pension expenditures were as follows:

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
	\$162,811.94	\$152,917.75

Note C - Collection Accounts

The Office of the Insurance Commissioner of West Virginia is assigned various collection accounts which act as conduits to remit collections to the State General Revenue Fund. The amounts disclosed below exclude remittances to the Examination Revolving Fund Transfer Account (Fund 7150-426) and Insurance Commission Fund Transfer Account (Fund 7152-426) which were disclosed in the basic financial statement:

		<u>Year Ended June 30,</u>	
<u>Fund</u>	<u>Fund Name</u>	<u>1998</u>	<u>1997</u>
<u>Number</u>			
0480-508	Insurance Tax	\$69,695,176.52	\$70,345,686.73
0480-530	Examination Fees	438,450.00	425,550.00
0480-574	Fire Marshall Tax	804,563.49	782,392.96
0480-584	Fines and Penalties	<u>37,305.00</u>	<u>253,900.00</u>
	TOTALS	<u>\$70,975,495.01</u>	<u>\$71,807,529.69</u>

Also, the Office of the Insurance Commissioner of West Virginia is assigned several accounts for the purpose of remitting certain other collections to the State Treasurer's Office for various purposes. The amounts of collections in these accounts in the years ended June 30, 1998 and June 30, 1997, respectively were as follows: Municipal Pension & Protection 1% Fire & Gas Tax Fund Fund (7155-640) - \$14,297,392.64 and \$14,731,456.37; Fire Protection Fund (Fund 7158-640) - \$6,765,639.09 and \$6,917,127.49; and, Fire Insurance - 1% Surcharge - Clearing Fund (Fund 7160-640) - \$0.00 and \$0.00. The amounts disbursed from these accounts in the years ended June 30, 1998 and June 30, 1997, respectively were as follows: Municipal Pension & Protection 1% Fire & Gas Tax Fund (Fund 7155-640) - \$36,800,732.62 and \$13,399,522.19; Fire Protection Fund (Fund 7158-640) - \$10,268,639.08 and \$6,666,584.90; and, Fire Insurance - 1% Surcharge - Clearing Fund (Fund 7160-640) - \$0.00 and \$8,871.91. The remaining balance of the accounts as of June 30, 1998 and June 30, 1997, respectively, were as follows: Municipal Pension & Protection 1% Fire & Gas Tax Fund (Fund 7155-640) - \$17,564.19 and \$22,520,904.19; Fire Protection Fund (Fund 7158-640) - \$6,750.07 and \$3,509,750.07; and, Fire Insurance - 1% Surcharge - Clearing Fund (Fund 7160-640) - \$4,954.76 and \$6,977.81.

SUPPLEMENTAL INFORMATION

INSURANCE COMMISSIONER OF WEST VIRGINIA
 STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
 SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Examination Revolving Fund -</u>		
<u>Personal Services Fund 7150-001</u>		
Appropriations	\$409,390.00	\$409,390.00
Expenditures:		
Personal Services	<u>225,180.00</u>	<u>240,968.16</u>
	184,210.00	168,421.84
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$184,210.00</u>	<u>\$168,421.84</u>
<u>Examination Revolving Fund -</u>		
<u>Annual Increment Fund 7150-004</u>		
Appropriations	\$ 350.00	\$ 300.00
Expenditures:		
Annual Increment	<u>0.00</u>	<u>300.00</u>
	350.00	0.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 350.00</u>	<u>\$ 0.00</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA
 STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
 SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Examination Revolving Fund -</u>		
<u>Employee Benefits Fund 7150-010</u>		
Appropriations	\$ 99,549.00	\$100,930.00
Expenditures:		
Employee Benefits	<u>50,733.31</u>	<u>55,792.89</u>
	48,815.69	45,137.11
Transmittals Paid After June 30	<u>1,695.29</u>	<u>1,662.47</u>
Balance	<u>\$ 50,510.98</u>	<u>\$ 46,799.58</u>
<u>Examination Revolving Fund -</u>		
<u>Unclassified Fund 7150-099</u>		
Appropriations	\$313,500.00	\$313,500.00
Expenditures:		
Current Expenses	100,549.60	117,409.48
Repairs and Alterations	71.00	310.00
Equipment	<u>14,406.00</u>	<u>15,823.76</u>
	<u>115,026.60</u>	<u>133,543.24</u>
	198,473.40	179,956.76
Transmittals Paid After June 30:		
Current Expenses	2,729.90	5,421.79
Repairs and Alterations	<u>14,406.00</u>	<u>310.00</u>
	<u>17,135.90</u>	<u>5,731.79</u>
Balance	<u>\$215,609.30</u>	<u>\$185,688.55</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Examination Revolving Fund -</u>		
<u>Transfers Fund 7150-426</u>		
Cash Receipts	\$510,072.00	\$461,662.00
Disbursements:		
Transfers to State General Revenue Fund	<u>510,072.00</u>	<u>461,662.00</u>
	0.00	0.00
Beginning Balance	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

CASH CONTROL - FUND 7150-640

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Examination Revolving Fund</u>		
Beginning Balance:		
State Treasury	\$ 69,423.29	\$103,197.15
Cash Receipts:		
Other Collections, Fees, Licenses and Income	<u>875,450.00</u>	<u>856,250.00</u>
 TOTAL CASH TO ACCOUNT FOR	 <u>\$944,873.29</u>	 <u>\$959,447.15</u>
Disbursements:		
Personal Services	\$225,180.00	\$240,968.16
Annual Increment	0.00	300.00
Employee Benefits	50,733.31	55,792.89
Current Expenses	100,549.60	117,409.48
Repairs and Alterations	71.00	310.00
Equipment	14,406.00	15,823.76
Transfers to State General Revenue Fund	<u>510,072.00</u>	<u>461,662.00</u>
	901,011.91	892,266.29
Add Transmittals Paid July 1-31		
Beginning; and (Less) Transmittals Paid July 1-31 Ending:		
Employee Benefits	1,662.47	328.38
(Employee Benefits)	(1,695.29)	(1,662.47)
Current Expenses	5,421.79	4,823.45
(Current Expenses)	(2,729.90)	(5,421.79)
Repairs and Alterations	310.00	0.00
(Repairs and Alterations)	0.00	(310.00)
Equipment	0.00	0.00
(Equipment)	<u>(14,406.00)</u>	<u>0.00</u>
	<u>(11,436.93)</u>	<u>(2,242.43)</u>
	889,574.98	890,023.86
Ending Balance:		
State Treasury	<u>55,298.31</u>	<u>69,423.29</u>
 TOTAL CASH ACCOUNTED FOR	 <u>\$944,873.29</u>	 <u>\$959,447.15</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Consumer Advocate Fund -</u>		
<u>Personal Services Fund 7151-001</u>		
Appropriations	\$197,180.00	\$73,500.00
Expenditures:		
Personal Services	<u>49,874.79</u>	<u>51,910.00</u>
	147,305.21	21,590.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$147,305.21</u>	<u>\$21,590.00</u>
<u>Consumer Advocate Fund -</u>		
<u>Annual Increment Fund 7151-004</u>		
Appropriations	\$ 450.00	\$ 450.00
Expenditures:		
Annual Increment	<u>400.00</u>	<u>200.00</u>
	50.00	250.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 50.00</u>	<u>\$ 250.00</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Consumer Advocate Fund -</u>		
<u>Employee Benefits Fund 7151-010</u>		
Appropriations	\$ 67,301.00	\$ 29,226.00
Expenditures:		
Employee Benefits	<u>16,148.92</u>	<u>13,436.22</u>
	51,152.08	15,789.78
Transmittals Paid After June 30	<u>842.63</u>	<u>577.63</u>
Balance	<u>\$ 51,994.71</u>	<u>\$ 16,367.41</u>
<u>Consumer Advocate Fund -</u>		
<u>Unclassified Fund 7151-099</u>		
Appropriations	\$199,537.00	\$117,521.00
Expenditures:		
Current Expenses	37,531.14	22,429.82
Repairs and Alterations	1,017.50	0.00
Equipment	<u>29,171.24</u>	<u>0.00</u>
	<u>67,719.88</u>	<u>22,429.82</u>
	131,817.12	95,091.18
Transmittals Paid After June 30	<u>32,727.13</u>	<u>6,096.00</u>
Balance	<u>\$164,544.25</u>	<u>\$101,187.18</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

CASH CONTROL - FUND 7151-640

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Consumer Advocate Fund</u>		
Beginning Balance:		
State Treasury	\$ 22,002.56	\$ 13,521.55
Cash Receipts:		
Transfer from Fund 7152	<u>125,000.00</u>	<u>100,000.00</u>
 TOTAL CASH TO ACCOUNT FOR	 <u>\$147,002.56</u>	 <u>\$113,521.55</u>
 Disbursements:		
Personal Services	\$ 49,874.79	\$ 51,910.00
Annual Increment	400.00	200.00
Employee Benefits	16,148.92	13,436.22
Current Expenses	37,531.14	22,429.82
Repairs and Alterations	1,017.50	0.00
Equipment	<u>29,171.24</u>	<u>0.00</u>
	134,143.59	87,976.04
 Add Transmittals Paid July 1-31		
Beginning; and (Less) Transmittals		
Paid July 1-31 Ending:		
Employee Benefits	577.63	65.68
(Employee Benefits)	(842.63)	(577.63)
Current Expenses	6,096.00	10,150.90
(Current Expenses)	(3,635.99)	(6,096.00)
Repairs and Alterations	0.00	0.00
(Repairs and Alterations)	(1,017.50)	0.00
Equipment	0.00	0.00
(Equipment)	<u>(28,073.64)</u>	<u>0.00</u>
	<u>(26,896.13)</u>	<u>3,542.95</u>
	107,247.46	91,518.99
 Ending Balance:		
State Treasury	<u>39,755.10</u>	<u>22,002.56</u>
 TOTAL CASH ACCOUNTED FOR	 <u>\$147,002.56</u>	 <u>\$113,521.55</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA
STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Insurance Commission Fund -</u>		
<u>Personal Services Fund 7152-001</u>		
Appropriations	\$1,581,988.00	\$1,581,988.00
Expenditures:		
Personal Services	<u>1,418,015.46</u>	<u>1,447,770.15</u>
	163,972.54	134,217.85
Transmittals Paid After June 30	<u>600.00</u>	<u>0.00</u>
Balance	<u>\$ 164,572.54</u>	<u>\$ 134,217.85</u>
 <u>Insurance Commission Fund -</u>		
<u>Annual Increment Fund 7152-004</u>		
Appropriations	\$ 29,950.00	\$ 28,150.00
Expenditures:		
Annual Increment	<u>26,300.00</u>	<u>25,004.03</u>
	3,650.00	3,145.97
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 3,650.00</u>	<u>\$ 3,145.97</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA
STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Insurance Commission Fund -</u>		
<u>Employee Benefits Fund 7152-010</u>		
Appropriations	\$498,765.00	\$573,216.00
Expenditures:		
Employee Benefits	<u>442,486.64</u>	<u>434,417.62</u>
	56,278.36	138,798.38
Transmittals Paid After June 30	<u>17,603.29</u>	<u>18,305.48</u>
Balance	<u>\$ 73,881.65</u>	<u>\$157,103.86</u>
 <u>Insurance Commission Fund-</u>		
<u>Unclassified Fund 7152-099</u>		
Appropriations	\$928,300.00	\$852,900.00
Expenditures:		
Current Expenses	620,897.25	623,978.13
Repairs and Alterations	8,630.85	6,766.05
Equipment	296,590.20	116,054.33
Other Extraordinary Disbursements	0.00	7,372.42
	<u>926,118.30</u>	<u>754,170.93</u>
	2,181.70	98,729.07
Transmittals Paid After June 30:		
Current Expenses	54,028.91	55,256.27
Repairs and Alterations	3,214.10	3,169.70
Equipment	<u>116,460.49</u>	<u>8,793.07</u>
	<u>173,703.50</u>	<u>67,219.04</u>
Balance	<u>\$175,885.20</u>	<u>\$165,948.11</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA
STATEMENT OF APPROPRIATIONS AND EXPENDITURES

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Claims Against the State -</u>		
<u>Fund 7152-319</u>		
Appropriations	\$3,803.58	\$3,803.58
Expenditures	<u>0.00</u>	<u>0.00</u>
	3,803.58	3,803.58
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$3,803.58</u>	<u>\$3,803.58</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Insurance Commission Fund -</u>		
<u>Transfers Fund 7152-426</u>		
Cash Receipts	\$1,012,077.00	\$725,000.00
Disbursements:		
Transfers to State General Revenue Fund	887,077.00	625,000.00
Transfers to Consumer Advocate Fund - Fund 7151-640	<u>125,000.00</u>	<u>100,000.00</u>
	<u>1,012,077.00</u>	<u>725,000.00</u>
	0.00	0.00
Beginning Balance	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

INSURANCE COMMISSIONER OF WEST VIRGINIA
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
CASH CONTROL - FUND 7152-640


	<u>Year Ended June 30,</u>	
	<u>1998</u>	<u>1997</u>
<u>Insurance Commission Fund</u>		
Beginning Balance:		
State Treasury	\$4,253,225.17	\$3,900,707.60
Cash Receipts:		
Other Collections, Fees, Licenses and Income	<u>3,949,266.38</u>	<u>3,724,632.34</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$8,202,491.55</u>	<u>\$7,625,339.94</u>
Disbursements:		
Personal Services	\$1,418,015.46	\$1,447,770.15
Annual Increment	26,300.00	25,004.03
Employee Benefits	442,486.64	434,417.62
Current Expenses	620,897.25	623,978.13
Repairs and Alterations	8,630.85	6,766.05
Equipment	296,590.20	116,054.33
Other Extraordinary Disbursements	0.00	7,372.42
Transfers to State General Revenue Fund	887,077.00	625,000.00
Transfers to Fund 7151	<u>125,000.00</u>	<u>100,000.00</u>
	3,824,997.40	3,386,362.73
Add Transmittals Paid July 1-31		
Beginning; and (Less) Transmittals Paid July 1-31 Ending:		
Personal Services	0.00	0.00
(Personal Services)	(600.00)	0.00
Employee Benefits	18,305.48	1,972.11
(Employee Benefits)	(17,603.29)	(18,305.48)
Current Expenses	55,256.27	52,780.18
(Current Expenses)	(54,028.91)	(55,256.27)
Repairs and Alterations	3,169.70	0.00
(Repairs and Alterations)	(3,214.10)	(3,169.70)
Equipment	8,793.07	16,524.27
(Equipment)	<u>(116,460.49)</u>	<u>(8,793.07)</u>
	<u>(106,382.27)</u>	<u>(14,247.96)</u>
	3,718,615.13	3,372,114.77
Ending Balance:		
State Treasury	<u>4,483,876.42</u>	<u>4,253,225.17</u>
TOTAL CASH ACCOUNTED FOR	<u>\$8,202,491.55</u>	<u>\$7,625,339.94</u>

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

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

Given under my hand this 17th day of October, 1999.



Thedford Shanklin, CPA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Secretary of the Department of Tax and Revenue; Office of the Insurance Commissioner of West Virginia; Governor; Attorney General; and, State Auditor.