



**A REPORT TO THE
WEST VIRGINIA
LEGISLATURE**
September 13, 2015

Post Audits Subcommittee

Senate Members

The Honorable William P. Cole, III
The Honorable Mike Hall
The Honorable Jeffrey V. Kessler

House Members

The Honorable Tim Armstead
The Honorable Eric Nelson, Jr
The Honorable Timothy Miley

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WV DEPARTMENT OF EDUCATION
**WV PUBLIC SCHOOL SUPPORT PLAN – FY 2009 TO
FY 2015**

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The Honorable Timothy Armstead, Speaker
West Virginia House of Delegates
Post Audits Subcommittee, Co-Chair
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Dear Mr. President and Mr. Speaker:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we conducted a compliance audit of the West Virginia Department of Education (WVDE) Public School Support Plan (State Aid) formula for the period of July 1, 2009 through June 30, 2015.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit disclosed certain findings, which are detailed in this report. The WVDE management response to the audit findings is included at the end of the report.

Respectfully submitted,

Denny Rhodes

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ABBREVIATIONS

WVDE	West Virginia Department of Education
SSP	Professional Student Support Personnel
PE	Professional Educators
MCVC	Multi County Vocational Centers
FY	Fiscal Year (July 1 st through July 30 th)
GAGAS	Generally Accepted Government Auditing Standards
TRS	Teachers' Retirement System

OBJECTIVE and CONCLUSIONS

OBJECTIVE

Did the WVDE calculate the Public School Support Plan formula according to WV Code §18-9A, as amended, during FY 2009 through 2015 resulting in the correct appropriation and distribution of State Aid funding to the county school districts during this period?

Conclusion

For FY 2009 through 2015 the WVDE misinterpreted WV Code §18-9A, as amended, resulting in approximately \$73.3 million in total errors. The errors included 36 counties being underfunded approximately \$51.7 million, and 19 counties being overfunded approximately \$21.6 million. The overall impact of the errors in the calculation of State Aid was the net underfunding of approximately \$30.1 million statewide.

Related Findings and Recommendations

Finding 1: The WVDE calculation of the Public School Support Plan (State Aid) formula during FY 2009 through 2015 resulted in 65% of county school districts being underfunded by approximately \$51.7 million.

- 1-1. The Legislative Auditor recommends the WVDE calculate future State Aid distributions in accordance with WV Code §18-9A.
- 1-2. The Legislative Auditor recommends the WVDE in conjunction with the House or Senate Education Committee work with the Legislature to clarify areas of WV Code §18-9A that could be misinterpreted or result in miscalculation.

Finding 2: Funds were not transferred to the School Building Capitol Improvement Fund.

- 2-1. The Legislative Auditor recommends the WVDE comply with WV Code § 18-9A-10 and transfer funding appropriated for repayment of revenue bonds to the School Building Capital Improvements Fund.
- 2-2. The Legislative Auditor recommends the Legislature consider amending WV Code §18-9A-10 to specify when the WVDE should transfer the

funding to the School Building Capital Improvements Fund and provide the authority to transfer the funds as a lump sum.

Informational Item 1: The WVDE treated salary bonuses and supplements for certifications inconsistently

I-1. The Legislative Auditor recommends the WVDE implement a written policy or rule on the treatment of salary bonuses and supplements in the computation of the average minimum salary for professional educators and professional student support personnel (SSP)¹.

Informational Item 2: WV Code §18-9A-6a was not updated to include the Allowance for Professional Student Support Personnel as a component of the Teachers Retirement Fund Allowance calculation.

I-2. The Legislative Auditor recommends the Legislature amend WV Code §18-9A-6a to include the allowance for SSP in the calculation of the total teachers' retirement fund allowance.

¹ Student Support personnel are teachers who are assigned or serve on a regular full-time basis as a counselor or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses.

FINDINGS and RECOMMENDATIONS

65% of County School Districts were Underfunded a Total of Approximately \$51.7 Million from FY 2009 to 2015

FINDING 1: THE WVDE CALCULATION OF THE PUBLIC SCHOOL SUPPORT PLAN (STATE AID) FORMULA DURING FY 2009 THROUGH 2015 RESULTED IN 65% OF COUNTY SCHOOL DISTRICTS BEING UNDERFUNDED BY APPROXIMATELY \$51.7 MILLION.

The WVDE Office of School Finance is responsible for calculating and distributing the West Virginia Public School Support Plan (State Aid). The State Aid funding formula determines the state and county responsibilities for financing public schools in West Virginia. The purpose is to provide a basic foundation support plan that provides for program growth and a more equitable educational opportunity for all students irrespective of where they live. West Virginia Code Chapter 18 Article 9A governs how state funding levels are to be calculated. During the 2008 Legislative Session this chapter was significantly amended to update the calculation of State Aid to more equitably distribute funding based on population density and enrollment. In 2009, additional amendments were made to make corrections to the legislation introduced in 2008 and to provide further clarification.

The WVDE misinterpreted the amended code sections when performing the calculations for FY 2009 through 2015 resulting in approximately \$73.3 million in total errors. The errors included approximately \$51.7 million of underfunding and \$21.6 million of overfunding with a net underfunding to the county school districts of approximately \$30.1 million. The calculations performed by the Legislative Auditor were computed in strict accordance with WV Code with clarification provided by legal counsel for Legislative Services. The following tables illustrate the differences between the recalculated State Aid and the actual State Aid funding distributed by the WVDE. Table 1 on the following page is a Summary of Over/(Under) Funding of State Aid by School Year.

Table 1: Summary of Over/(Under) Funding of State Aid by School Year					
Year	Number of Counties Under Funded	Number of Counties Over Funded	Total Amount Under Funded	Total Amount Over Funded	Net Amount Over/(Under) Funded
2008-2009	45	10	\$ (18,484,534)	\$ 100,047	\$ (18,384,487)
2009-2010	48	7	(17,026,882)	331,000	(16,695,882)
2010-2011	43	12	(11,271,873)	933,505	(10,338,368)
2011-2012	28	26*	(4,258,504)	3,596,976	(661,528)
2012-2013	2	53	(267,318)	8,612,617	8,345,299
2013-2014	5	50	(235,842)	4,004,230	3,768,388
2014-2015	3	52	(148,151)	4,011,063	3,862,912
Net Total	36	19	\$ (51,693,104)	\$ 21,589,438	\$ (30,103,666)

*Audited State Aid funding for Ritchie County in the 2011-2012 School Year was equal to the actual funding computed by the WVDE.

Table 2 & 3 (pages 5-8) show the yearly differences by county between the recalculated funding allowances and actual funding allowances. WV Code divides school districts in West Virginia into four population density categories for State Aid: The categories are:

- Sparse: less than five students per mile
- Low: equal to or greater than five but less than ten per mile
- Medium: equal to or greater than ten but less than twenty
- High: equal to or greater than twenty

The population densities are determined by calculating the net enrollment per square mile in the county. These density categories are used to set the limits for the number of personnel allowed for funding and in determining the allowance for transportation costs. Therefore underfunding due to calculation errors may have a greater impact on “sparse” counties than on “high” counties. To demonstrate the impact, we calculated the per pupil total differences using the total FY 2009 through FY 2015 differences divided by the average headcount for FY 2009 through FY 2015. The before mentioned table illustrates the effect errors have on funding on a per pupil basis.

Table 2: Audited Differences in State Aid Funding Over/(Under) FY 2009 – 2015 Barbour County to Monroe County					
County	2008 – 2009	2009 - 2010	2010 – 2011	2011 - 2012	2012 - 2013
Barbour	\$ 11,676	\$ (198,026)	\$ (40,803)	\$ 195,857	\$ 254,470
Berkeley	(1,782,150)	(962,891)	(716,809)	(311,662)	372,481
Boone	(32,754)	(78,071)	(66,425)	20,132	23,591
Braxton	(4,206)	(43,599)	(18,266)	897	44,328
Brooke	3,766	(7,758)	(1)	2,131	69,680
Cabell	(1,215,733)	(1,172,587)	(748,118)	(356,449)	273,746
Calhoun	(55,815)	(62,834)	43,256	182,269	170,374
Clay	3,364	(154,446)	(133,428)	100,711	14,267
Doddridge	(349,759)	(255,123)	(131,891)	(90,128)	16,990
Fayette	(997,906)	(786,205)	(668,668)	(316,872)	84,813
Gilmer	(501,759)	(466,496)	(324,130)	(175,433)	6,763
Grant	3,465	(26,360)	13,350	39,673	224,039
Greenbrier	(257,085)	(205,306)	(158,675)	(70,758)	81,294
Hampshire	(71,613)	102,877	247,339	84,618	318,098
Hancock	950	4,966	(15,856)	23,465	72,302
Hardy	(163,707)	153,281	309,756	157,111	330,749
Harrison	(246,968)	(221,217)	(113,628)	31,187	147,510
Jackson	(260,930)	(268,688)	(183,033)	(32,431)	60,690
Jefferson	(754,155)	(922,744)	(742,035)	(417,591)	82,705
Kanawha	(2,526,229)	(1,921,503)	(1,547,477)	1,148,590	(258,963)
Lewis	(15,892)	(32,724)	(6,504)	31,896	70,515
Lincoln	(3,167)	16,308	(2,867)	11,688	22,326
Logan	(800,298)	(809,566)	(341,413)	(584,063)	107,874
Marion	(576,821)	(591,602)	(474,641)	(196,864)	120,689
Marshall	(274,042)	(254,872)	(177,433)	(122,494)	33,618
Mason	30,135	(1,104)	36,371	160,388	201,916
McDowell	(240,953)	(220,661)	(104,706)	2,849	(8,355)
Mercer	(562,887)	(1,057,783)	(506,765)	109,360	127,530
Mineral	(279,433)	(261,683)	(146,719)	(52,623)	60,544
Mingo	(132,271)	(393,233)	(342,472)	(255,772)	30,207
Monongalia	(610,994)	(530,809)	(395,000)	727,858	1,923,161
Monroe	(174,943)	(157,932)	(92,665)	(49,232)	20,271

Audited Differences in State Aid Funding Over/(Under) FY 2009 – 2015 Barbour County to Monroe County (Continued)						
County	2013 – 2014	2014 - 2015	Total 2008 - 2015	Total 2008 – 2015		
				Difference per Pupil	Population Density	
Barbour	\$ 15,279	\$ 15,272	\$ 253,725	\$ 102	Low	
Berkeley	463,555	122,810	(2,814,666)	(159)	High	
Boone	62,920	42,290	(28,317)	(6)	Low	
Braxton	64,672	17,110	60,936	28	Sparse	
Brooke	14,064	41,119	123,001	36	High	
Cabell	266,421	117,561	(2,835,159)	(223)	High	
Calhoun	10,255	596	288,101	259	Sparse	
Clay	(50,437)	(37,492)	(257,461)	(126)	Low	
Doddridge	3,821	8,377	(797,713)	(677)	Sparse	
Fayette	70,034	108,265	(2,506,539)	(367)	Medium	
Gilmer	236,399	416,323	(808,333)	(864)	Sparse	
Grant	46,016	38,723	338,906	178	Sparse	
Greenbrier	75,734	76,940	(457,856)	(87)	Low	
Hampshire	76,031	95,110	852,460	237	Low	
Hancock	94,289	51,099	231,215	54	High	
Hardy	159,333	65,657	1,012,180	436	Sparse	
Harrison	121,978	60,490	(220,648)	(20)	High	
Jackson	56,802	64,128	(563,462)	(112)	Medium	
Jefferson	10,276	233,056	(2,510,488)	(288)	High	
Kanawha	(116,246)	(99,920)	(5,321,748)	(187)	High	
Lewis	57,432	67,644	172,367	65	Low	
Lincoln	14,070	827	59,185	16	Low	
Logan	39,163	68,969	(2,319,334)	(362)	Medium	
Marion	81,123	32,341	(1,605,775)	(199)	High	
Marshall	33,342	33,928	(727,953)	(152)	Medium	
Mason	172,125	167,126	766,957	177	Low	
McDowell	(57,812)	11,875	(617,763)	(172)	Low	
Mercer	163,991	169,002	(1,557,552)	(162)	High	
Mineral	25,038	24,228	(630,648)	(144)	Medium	
Mingo	5,309	(10,739)	(1,098,971)	(242)	Medium	
Monongalia	137,401	107,035	1,358,652	127	High	
Monroe	24,650	21,823	(408,028)	(214)	Sparse	

Table 3: Audited Differences in State Aid Funding Over/(Under) FY 2009 – 2015					
Morgan County to Wyoming County					
<u>County</u>	<u>2008 - 2009</u>	<u>2009 - 2010</u>	<u>2010 – 2011</u>	<u>2011 - 2012</u>	<u>2012 - 2013</u>
Morgan	\$ (302,575)	\$ (317,859)	\$ (198,692)	\$ (71,307)	\$ 82,242
Nicholas	(110,344)	(129,802)	(97,838)	(31,338)	3,035
Ohio	(108,137)	(78,393)	(24,177)	(63,874)	18,502
Pendleton	(381,016)	(394,012)	(271,238)	(942)	147,775
Pleasants	(95,259)	(78,564)	(12,534)	28,203	58,496
Pocahontas	(480,807)	(282,646)	(428,341)	(260,585)	84,468
Preston	(13,023)	(80,814)	(61,714)	(35,385)	75,738
Putnam	(278,328)	(256,017)	3,974	(21,549)	127,810
Raleigh	(1,733,217)	(1,197,611)	(312,785)	144,061	1,384,037
Randolph	(139,050)	(182,099)	(198,765)	(111,338)	27,102
Ritchie	(1,439)	(3,280)	484	0	35,422
Roane	9,068	23,824	(9,424)	(1,971)	120,626
Summers	(108,725)	(227,575)	(178,554)	(37,690)	131,933
Taylor	(21,465)	16,079	130,361	85,085	91,956
Tucker	(120,392)	(116,651)	(82,984)	57,533	232,257
Tyler	9,994	13,665	11,809	49,272	78,505
Upshur	(37,753)	(54,845)	(59,641)	(48,875)	32,778
Wayne	(143,198)	(114,149)	(89,597)	(63,096)	142,823
Webster	(212,444)	(146,989)	101,768	(114,753)	22,888
Wetzel	20,040	(6,310)	4,586	2,168	13,075
Wirt	(230,312)	(316,671)	(207,059)	153,628	134,982
Wood	(1,074,580)	(971,203)	(838,102)	(363,429)	100,907
Wyoming	7,589	(5,569)	30,451	46,346	97,719
Total for State	\$ (18,384,487)	\$ (16,695,882)	\$ (10,338,368)	\$ (661,528)	\$ 8,345,299

Audited Differences in State Aid Funding Over/(Under) FY 2009 – 2015 Morgan County to Wyoming County (Continued)						
County	2013 - 2014	2014 - 2015	Total 2008 - 2015	Total 2008 – 2015 Difference per Pupil	Population Density	
Morgan	\$ 63,601	\$ 49,476	\$ (695,114)	\$ (264)	Medium	
Nicholas	(6,370)	1,449	(371,208)	(92)	Low	
Ohio	30,580	34,383	(191,116)	(36)	High	
Pendleton	124,987	143,535	(630,911)	(594)	Sparse	
Pleasants	52,799	45,959	(900)	(1)	Low	
Pocahontas	29,838	48,087	(1,289,986)	(1,103)	Sparse	
Preston	43,340	40,403	(31,455)	(7)	Low	
Putnam	105,477	122,063	(196,570)	(20)	High	
Raleigh	238,477	212,974	(1,264,064)	(102)	High	
Randolph	6,435	33,113	(564,602)	(131)	Sparse	
Ritchie	(4,977)	32,683	58,893	37	Sparse	
Roane	138,855	168,825	449,803	179	Low	
Summers	15,886	22,745	(381,980)	(245)	Sparse	
Taylor	81,102	74,642	457,760	189	Medium	
Tucker	42,642	33,618	46,023	43	Sparse	
Tyler	71,237	80,617	315,099	220	Low	
Upshur	34,930	37,230	(96,176)	(25)	Medium	
Wayne	71,639	100,430	(95,148)	(13)	Medium	
Webster	19,651	24,438	(305,441)	(199)	Sparse	
Wetzel	34,849	21,568	89,976	31	Low	
Wirt	9,383	38,418	(417,631)	(419)	Sparse	
Wood	108,147	261,454	(2,776,806)	(207)	High	
Wyoming	78,852	103,229	358,617	85	Low	
Total for State	\$ 3,768,388	\$ 3,862,912	\$ (30,103,666)			

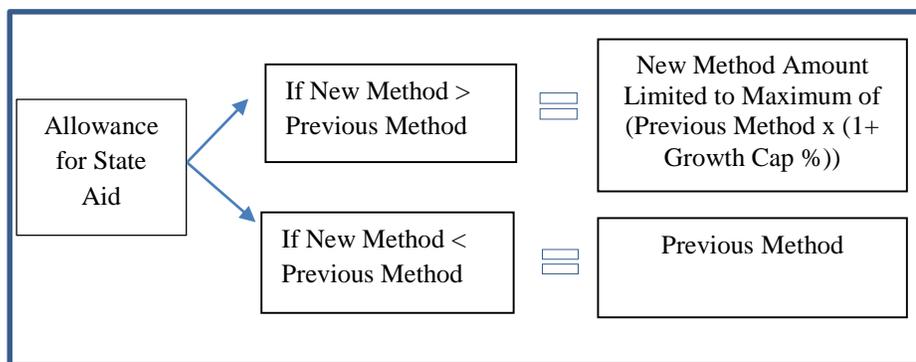
Table 4 on page 9 of the report summarizes the statewide funding differences by year.

Table 4: Summary of Statewide Funding Differences by Year			
School Year	Recalculated Allowance	Actual Allocation & Distribution	Over/(Under)
2008-2009	\$ 1,174,322,285	\$ 1,155,937,798	\$ (18,384,487)
2009-2010	1,085,429,714	1,068,733,832	(16,695,882)
2010-2011	1,064,355,039	1,054,016,671	(10,338,368)
2011-2012	1,199,308,738	1,198,647,210	(661,528)
2012-2013	1,192,738,064	1,201,083,363	8,345,299
2013-2014	1,173,956,896	1,177,725,284	3,768,388
2014-2015	1,182,017,966	1,185,880,878	3,862,912
Total	\$ 8,072,128,702	\$ 8,042,025,036	\$ (30,103,666)

Phase-in of New Method

Changes in the State Aid formula resulting from the 2008 amendments to the WV Code were to be phased in over a five year period beginning with FY 2009. During this phase-in period, the WVDE was to calculate the funding using both the new method as well as the previous method and use whichever method resulted in the greater amount, limited to a specific amount of growth over the previous method (growth cap). (See Figure 1) The purpose of the phase-in was to allow for the gradual increasing of funding to the schools to ease the impact of the changes on the state budget. (See Appendix B for criteria used as the basis for our phase-in method)

Figure 1: Calculation per WV Code §18-9A for Total Allowance for All Steps



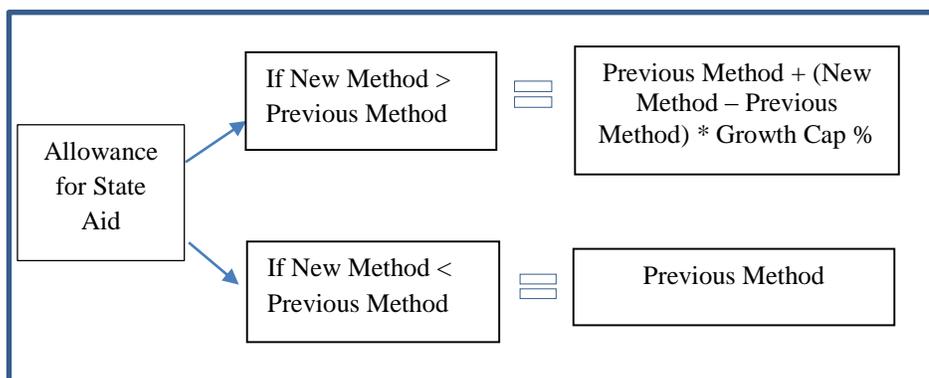
In order to gradually phase-in the new formula, and to hold harmless counties which would have received greater amounts under the previous method, WV Code capped the total allowance amount to a specific increase each year over the previous method as shown in Table 5:

Table 5: Growth Caps per WV Code	
2009	20% Growth Cap over Previous Method
2010	40% Growth Cap over Previous Method
2011	60% Growth Cap over Previous Method
2012	80% Growth Cap over Previous Method
2013	No Growth Cap

The phase-in method utilized by the WVDE was applied in different ways throughout the formula during FY 2009 through 2013. Rather than comparing the total State Aid allowances computed for each county under the new method to the previous method and limiting the new method allowances to the growth cap for each year of the phase-in, the WVDE utilized a hybrid method for each of the seven steps of the formula. The method the WVDE utilized in applying the growth caps in each step is detailed below and shown in Figure 2.

- If the new method resulted in an allowance amount less than the previous method, the Allowance for State Aid funding equaled the previous method allowance amount.
- If the new method resulted in an allowance amount greater than the allowance calculated under the previous method, the Allowance for State Aid funding equaled the previous method allowance amount plus a percentage of the difference between the allowance amounts calculated under each method. The percentage of the difference added to the previous method allowance amount is equal to the growth cap percentage applicable to the year being calculated. (e.g 2009 – 20%, 2010 – 40%, etc...)

Figure 2: Process used by WVDE to Calculate Allowances by Step



As previously stated, the WVDE applied the process, in Figure 2, to each step of the formula. Therefore, the process was not applied uniformly over the entire formula but only when a step was calculated as having a greater allowance under the new method.

Allowance for Service Personnel

The State Aid formula calculates the number of service personnel funded per 1,000 students in net enrollment based on county population density. During FY 2010 to 2015, the WVDE funded a larger number of service personnel per 1,000 students in net enrollment than allowed by the State Aid Formula. This is due to the fact that the WVDE increased the number allowed for funding per 1,000 students in their calculation by one-half percent each year from year 2010 to 2013 when the WV Code did not allow for this increase. Table 6 below shows the result of this error.

Year	Actual Number of Personnel	Audited Number of Personnel	Over / (Under) Funded
2010	12,487	12,515	(28)
2011	12,494	12,507	(13)
2012	12,545	12,528	17
2013	12,585	12,529	56
2014	12,591	12,539	52
2015	12,566	12,512	54

Allowance for Professional Student Support Personnel

The amendments to the State Aid code separated the positions historically considered to be Professional Educators into two classes: Professional Educators (PE) and Professional Student Support Personnel (SSP).

The State Aid formula required the WVDE to determine the funding allowance for SSP in FY 2009 by calculating the funding allowance for SSP in 2008 as follows:

- 2008 SSP Employed x (2008 PE Funded/2008 PE Employed) = 2008 SSP Positions Funded

- 2008 SSP Positions Funded x Average Salary SSP = 2008 SSP Allowance

WV Code §18-9A-8, as amended, created a new method for computing the allowance for SSP in 2009. The WVDE did not follow the methods described in this code section resulting in allowance amounts that differed from the allowances calculated per WV code

The 2008 allowance was then increased by one-half percent to arrive at the 2009 allowance amount. Each year after FY 2009, the previous year's allowance was increased by one-half percent up through FY 2013. After FY 2013 the allowance would remain at the FY 2013 amount.

The WVDE used the above calculation for FY 2008 to recalculate the allowance each year adjusting the 2008 SSP Employed by the current year ratio of PE Funded to PE Employed. The SSP Positions Funded were then increased by one-half percent.

If the WVDE determined the number of SSP funded was greater than the number employed² they would multiply the difference by the current year's average salary and add it to the total salaries for the county. Conversely, if the number of SSP funded was lower than the number employed, they would multiply the difference by the average salary and subtract it from the total salaries for the county. After FY 2013, the WVDE did not increase the allowance amounts, instead the allowances for SSP remained at the FY 2013 amount.

In addition to the WVDE increasing the number funded rather than the amount funded during FY 2009 through FY 2012, they also applied the process detailed in Figure 2.

Multi-County Vocational Center (MCVC)³ Adjustment

The State Aid formula requires county boards to maintain a minimum number of professional instructional personnel per 1,000 students in net enrollment, depending on the population density of the county, or be assessed a penalty on the number of professional educators funded through State Aid. The penalty is applied by reducing the number of PE allowed for funding by the number of professional instructional personnel under the required limit. WV Code §18-9A-4(b) does not contain language to allow for the proration of the professional instructional personnel for counties which support a MCVC. During FY 2014 and 2015 the WVDE adjusted the number of professional instructional personnel attributable to counties participating in a MCVC. The adjustment involved reducing the number of professional instructional personnel for the county where the MCVC was located proportionately to the number of these personnel attributable to the participating counties. The participating counties' number of

² As part of the phase-in process, the restriction to the actual number employed was lifted allowing counties to receive the total amount for funded positions, even if they employed less than the funded number.

³ Multi-County Vocational Centers (MCVC) serve two or more counties providing vocational training to promote useful employment in recognized occupations.

professional instructional personnel were proportionately increased according to their share in the total net enrollment in the MCV. This resulted in counties which did not maintain the minimum ratio either *not* having their number of PE funded reduced or being reduced at an amount less than the actual penalty amount under WV Code.

Conclusion

Multiple amendments were made to the calculation of the State Aid formula beginning in FY 2009 which required significant revisions to how the formula was calculated. These changes, as well as the complexity of the calculation, resulted in a high risk for error. Since many of the steps in the calculation rely on the salary allowances for professional educators, service personnel, and professional student support staff, any errors made in these calculations flow through and effect all areas of the formula as well as carry on to future years. As a result of the WVDE misinterpreting WV Code §18-9A, as amended, there were approximately \$73.3 million in total errors for FY 2009 through 2015. The errors included 36 counties being underfunded by approximately \$51.7 million, and 19 counties being overfunded by approximately \$21.6 million. The overall impact of the errors in the calculation of State Aid was the net underfunding of approximately \$30.1 million statewide.

In addition to the net underfunding of State Aid distributed directly to the county boards, errors in calculating the salary allowances and number of personnel funded also could affect the amount the state pays on behalf of the county boards for PEIA employer insurance premiums and employer contributions for retirement.

Recommendations

- 1-1. The Legislative Auditor recommends the WVDE calculate future State Aid distributions in accordance with WV Code §18-9A.
- 1-2. The Legislative Auditor recommends the WVDE in conjunction with the House or Senate Education Committee work with the Legislature to clarify areas of the WV Code that could be misinterpreted or result in miscalculation.

FINDING 2: FUNDS WERE NOT TRANSFERRED TO THE SCHOOL BUILDING CAPITOL IMPROVEMENT FUND

Appropriated funds were not transferred to the School Building Capital Improvements Fund⁴ in the amount of approximately \$23.3 million for fiscal year 2013, as required by WV Code §18-9A-10. Instead, the WVDE made monthly debt service payments directly to the bond holder.

The WVDE does not have the authority to make a lump sum transfer of these funds at the beginning of the fiscal year. However, if the WVDE was able to make this transfer as a lump sum, the School Building Authority (SBA) could potentially benefit from interest earned on these funds. Interest earned could have been used to fund county school district capital improvement projects. The table below represents the **potential** loss of interest which could have been earned on these funds **if** they had been transferred to the School Building Capital Improvements Fund on July 1, 2012 (Beginning of FY 2013).

Month	Balance of Funds not Transferred	Potential Interest Lost*
July	\$ 23,308,645	\$ 25,476
August	21,394,229	24,173
September	19,477,515	25,101
October	17,558,501	22,876
November	15,637,184	21,266
December	13,713,561	18,530
January	11,787,631	18,053
February	9,859,389	15,058
March	7,928,833	12,109
April	5,995,960	9,207
May	4,060,769	5,296
June	2,123,254	2,574
Total Potential Interest Lost FY 13:		\$ 199,719

**Monthly Interest Rates Used to Determine Interest Amounts Were Obtained from the WV Board of Treasury Investments Historical Returns – WV Money Market Pool.*

According to the WVDE Departmental Review, issued July 7, 2015, the amount of appropriations for the payment of this debt service was roughly the same each year and therefore, assuming similar interest rates as in FY 2013, the SBA could have potentially benefited from \$32,000 to \$200,000 in interest earned on these funds depending on the timing of the funds transfer.

⁴ The School Building Capital Improvements Fund is maintained by the West Virginia School Building Authority and is to be used for funding capital improvement projects in the school districts. WVDE acts as the fiscal agent for the School Building Authority.

Recommendations

- 2-1. The Legislative Auditor recommends the WVDE comply with WV Code §18-9A-10 and transfer funding appropriated for repayment of revenue bonds to the School Building Capital Improvements Fund.

- 2-2. The Legislative Auditor recommends the Legislature consider amending WV Code §18-9A-10 to specify when the WVDE should transfer the funding to the School Building Capital Improvements Fund and provide the authority to transfer the funds as a lump sum.

**INFORMATIONAL ITEM 1: WVDE TREATED SALARY BONUSES
AND SUPPLEMENTS FOR CERTIFICATIONS INCONSISTENTLY**

Due to the inconsistent treatment of salary bonuses and supplements for computing the average minimum salary for professional educators, the state may be funding salary bonuses and supplements for positions for which they are not fiscally responsible.

The State Aid formula allows for salary bonuses and salary supplements⁵ to be provided to county districts for eligible professional educators. Depending on when the bonuses were reported to the WVDE, the bonuses were either: included in the calculation of the average salary and pro-rated between funded versus non-funded positions, or were added fully funded to the total allowance for professional educators.

Also, since the code section governing the calculation of the Allowance for Professional Student Support Personnel⁶ does not allow for salary bonuses and salary supplements to be included in the yearly allowance, the WVDE added the bonuses to the Allowance for Professional Educators.

Finally, WVDE does not have a formal written policy for the treatment of salary bonuses and supplements for computing the average state funded salary used to determine the State Aid funded salary allowance.

Recommendation

- I-1. The Legislative Auditor recommends WVDE implement a written policy or rule on the treatment of salary bonuses and supplements for professional educators and professional student support personnel in regard to State Aid funding.

⁵ Bonus Payments & Salary Supplements include payments made to teachers, nurses, and counselors who are certified by a National Board or Association.

⁶ Per **WV Code §18-9A-2, as amended**, professional student support personnel are considered to be teachers for all purposes except for the determination of the allowance for professional educators...”

INFORMATIONAL ITEM 2: WV CODE §18-9A-6A WAS NOT UPDATED TO INCLUDE THE ALLOWANCE FOR PROFESSIONAL STUDENT SUPPORT PERSONNEL AS A COMPONENT OF THE TEACHERS RETIREMENT FUND ALLOWANCE CALCULATION.

In 2009, the Legislature amended WV Code §18-9A and made significant changes to the State Aid funding formula specifically to the calculation of the funding allowance for SSP. Prior to this amendment, the allowance for SSP was calculated as a component of the Allowance for Professional Educators. However, WV Code §18-9A-6a was not amended to take into account the change in the calculation to include the Allowance for SSP in determining retirement funding.

According to an email from the WVDE:

“the appropriation for Retirement are based on an actuarial report for the TRS system [Teachers’ Retirement System] provided by the Consolidated Public Retirement Board. The appropriations are typically split between what the actuary considers to be the current cost and what the actuary considers to be for unfunded liability”

In computing the allowance for the teachers’ retirement fund, the WVDE utilizes the basic foundation allowance for SSP as well as the basic foundation allowance calculated for professional educators and service personnel. However, WV Code bases the retirement allowance on the Allowance for Professional Educators and the Allowance for Service Personnel only.

The WVDE then subtracts the calculated premium from the total appropriation to determine the amount of unfunded retirement contribution to allocate among the counties, for reporting on the counties’ financial statements.

Since the allowance for the retirement funding is not determined by the WVDE, but is instead based on an actuarial report issued by the Consolidated Public Retirement Board (CPRB), there is no monetary effect on the formula. The funds are directly appropriated to the CPRB by the Legislature per the amounts stated in the CPRB actuarial report. However, because WV Code was not updated to include the allowance for SSP in the determination of required retirement funding, the state is technically not required to pay for the SSP portion of retirement benefits.

Recommendation

- I-2. The Legislative Auditor recommends the Legislature amend WV Code §18-9A-6a to include the allowance for SSP in the calculation of the total teachers’ retirement fund allowance.

APPENDIX A

AUTHORITY

The audit was conducted pursuant to WV Code §4-2, as amended, which requires the Legislative Auditor to “make post audits of the revenues and funds of the spending units of the state government, at least once every two years, if practicable, to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the State and of the organization and functions of the State and its spending units.”

The Post Audit Division of the Office of the Legislative Auditor is organized under the Legislative Branch of the State and the audits are reported to the Legislative Post Audits Subcommittee. This organizational structure has historically allowed the Division to be organizationally independent when audits are performed on an agency, Board, or program of the Executive Branch of the State.

This communication is intended solely for the information and use of the Post Audits Subcommittee, the members of the WV Legislature, management of WVDE, and WV taxpayers. Once presented to the Post Audits Subcommittee this report is a matter of public record and its distribution is not limited. The reports are designed to assist the Post Audits Subcommittee in exercising its legislative oversight function, to provide constructive recommendations for improving state operations, and as a report of agency activities to the WV taxpayers.

SCOPE

The audit scope included a review of the State Aid funding calculations for Fiscal Years 2009 through 2015 for compliance with West Virginia Code.

The audit included examining, on a test basis, evidence of compliance with those requirements referred to above and performing other procedures, as necessary. The audit does not provide a legal determination of WVDE’s compliance with those requirements.

The WVDE management is responsible for accurately and efficiently performing all duties mandated under WV Code Chapter 18 as well as other applicable areas

of WV Code, the Code of State Rules, its own internal policies, and as a result of its own audits. To achieve this, the WVDE must create and maintain policies and procedures to ensure all duties mandated are performed. Additionally, it is the duty of WVDE to accurately track and account for all State monies.

WVDE's management is also responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding assets, and compliance with applicable laws, rules, and regulations are achieved. Due to inherent limitations in internal control, errors and fraud may nevertheless occur and not be detected.

The scope over internal controls involved only assessing controls significant to the audit objective. To conclude on the adequacy of internal controls regarding WVDE as a whole was not a specific objective of the audit. Any significant internal control weaknesses discovered were reported in the findings.

This report includes findings regarding significant instances of noncompliance with applicable laws, rules, and regulations as related to the objective. Instances of noncompliance deemed insignificant to warrant inclusion in the report or instances outside the scope of the audit, but still merited the attention of WVDE management, were communicated in a letter to WVDE's management, if applicable.

EXIT CONFERENCE

A draft of the report was sent to management on August 31, 2015 with a request to schedule an exit conference on or before September 9, 2015. The exit conference was held September 4, 2015.

OVERALL SUFFICIENCY OF EVIDENCE

All testimonial evidence obtained by the audit team was evaluated for objectivity, credibility, and reliability and was obtained under conditions in which the employee was able to speak freely without intimidation. The employees had direct knowledge of their working area and there was no evidence employees were biased. Additionally, we assessed the sufficiency and appropriateness of computer processed information regardless of whether the information was provided to us or was independently extracted by using an Internal Control Questionnaire, assessing the reliability and integrity of data, performing analytical reconciliations, and testing the supporting documentation.

The auditors performed and documented an overall assessment of the collective evidence used to support findings and conclusions, including the results of any specific assessments conducted to conclude on the validity and reliability of specific evidence, according to Section 6.69 of the Yellow Book, by documenting internal controls, and performing tests of an appropriate size.

The overall evidence obtained was relevant to the objectives and findings. All evidence supported the findings, giving validity in having a reasonable basis for measuring what was being evaluated. The overall evidence was reliable when tested and can be verified and supported. In establishing the appropriateness of the evidence as a whole, the auditors tested reliability by obtaining supporting documentation, using original documents when available, verifying the credibility of testimonial evidence, evaluating analytical review, assessing risk through an analytical risk assessment, and applying auditor judgment on the overall evidence.

When assessing the sufficiency and appropriateness of evidence, the auditors evaluated the expected significance of evidence to the audit objectives, findings, and conclusions, available corroborating evidence, and the level of audit risk as described in Section 6.71 of the Yellow Book, by using professional judgment and statistical sampling to determine a sufficient quantity for the testing and to determine the type of evidence needed based on the audit objectives.

The auditors did not identify any limitations or uncertainties in evidence that were significant to the audit findings and conclusions. The evidence obtained in the course of the audit provides a reasonable basis for the findings and conclusions based on the audit objectives.

METHODOLOGY

OBJECTIVE ONE

The calculation of the Public School Support Plan (State Aid) formula was performed strictly in accordance with all applicable sections of WV Code §18-9A, as amended, including all revisions made per House Bill 4588, House Bill 2530, and House Bill 3157 for Fiscal Years 2009 through 2015. Data utilized in these calculations was obtained from documentation provided by the WVDE used in performing the original calculations of the State Aid formula. This information was verified as being accurate and reliable for the purpose of our recalculation. The errors discovered concerning the methods used by the WVDE in computing the State Aid formula did not pertain to any of the input data used by the WVDE in computing the State Aid allowances, rather in application of this data in the formula. In comparing the amounts calculated during the audit

and those originally calculated by the WVDE, the audit focused on comparing the total State Aid allowance calculated by the auditors and the allowance calculated and distributed to the counties by the WVDE. To verify that the amounts compared were accurate, the WVDE calculated allowance and distribution amounts were traced back to the WVFIMS actual distributions for fiscal years 2009 through 2014 and to wvOasis actual distributions for 2015.

Due to WV Code §18-9A, as amended, being vague in some areas concerning the calculation of the State Aid allowance, two assumptions were made in how to perform the calculation concerning those code sections. These assumptions were made conservatively in a way that would reflect the most reasonable and fair interpretation of the code sections. Areas of the calculation where the auditors made assumptions included the treatment of additional teacher certification bonuses and bonuses for SSP. For these bonuses the code section did not include any language on how they were to be treated other than they were to be funded through the State Aid formula. The auditors treated these bonuses in the same method as the WVDE, adding them to the allowance for PE without reduction or consideration of them being part of the average computed basic salaries and being fully funded. In computing the number of SSP allowed for State Aid funding, the WV Code did not contain any language on how to compute this number for use in computing the current expense allowance for professional educator substitute. The code did state a method for how to compute the number of SSP allowed for funding in the 2008 year as a basis for computing the allowance for SSP in 2009 based on applying the PE allowed for funding to employed percent to the number of SSP employed to get the number of SSP allowed for funding. This was the same method utilized by the WVDE in computing the number of SSP allowed for funding. Given this method was previously used in WV Code and was being utilized by the WVDE for the same purpose, we chose to use this same method as it was reasonable and fair in determining the number of SSP allowed for State Aid funding.

APPLICABLE LAWS, POLICIES, OR AGREEMENTS

West Virginia State Code §18-9A

West Virginia State Code §18-4-2a

West Virginia State Code §18-4-2b

APPENDIX B WV Code §18-9A-3a (Repealed Code Section)

Public School Support Plan Phase-In Criteria

House Bill 4588 Passed March 8, 2008; in effect July 1, 2008 states in part the following:

“§18-9A-3a. Total state basic foundation program for fiscal years 2009 through 2013, only.

- (1) For the fiscal year two thousand nine, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of one fifth above the amount computed for the county in accordance with the provisions in effect for fiscal year two thousand eight. The total basic foundation program for the county is the greater of the two computations.*
- (2) For the fiscal year two thousand ten, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of two fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year two thousand eight. The total basic foundation program for the county is the greater of the two computations.*
- (3) For the fiscal year two thousand eleven, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of three fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year two thousand eight. The total basic foundation program for the county is the greater of the two computations.*
- (4) For the fiscal year two thousand twelve, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of four fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year two*

thousand eight. The total basic foundation program for the county is the greater of the two computations.

- (5) *For the fiscal year two thousand thirteen and each year thereafter, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. For the fiscal year two thousand thirteen only, the total basic foundation program for the county is the greater of the two computations.*

House Bill 2530 Passed April 10, 2009; in effect July 1, 2009 states in part the following:

“§18-9A-3a. Total state basic foundation program for fiscal years 2009 through 2013, only.

- (1) *For the fiscal year 2009, the Department of Education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for the fiscal year 2008. The total basic foundation program for each county computed in accordance with this article is limited to a growth of one-fifth above the amount computed for the county in accordance with the provisions in effect for fiscal year 2008. The total basic foundation program for the county is the greater of the two computations.*
- (2) *For the fiscal year 2010, the Department of Education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for the fiscal year 2008. The total basic foundation program for each county computed in accordance with this article is limited to a growth of two-fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year 2008. The total basic foundation program for the county is the greater of the two computations.*
- (3) *For the fiscal year 2011, the Department of Education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for the fiscal year 2008. The total basic foundation program for each county computed in accordance with this article is limited to a growth of three-fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year 2008. The total basic foundation program for the county is the greater of the two computations.*
- (4) *For the fiscal year 2012, the Department of Education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for the fiscal year 2008. The total basic foundation program for each county computed in accordance with this article is limited to a growth of four-fifths above the amount computed for the county in accordance with*

- the provisions in effect for fiscal year 2008. The total basic foundation program for the county is the greater of the two computations.*
- (5) *For the fiscal year 2013 and each year thereafter, the Department of Education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for the fiscal year 2008. For fiscal year 2013 only, the total basic foundation program for the county is the greater of the two computations.”*

APPENDIX C MANAGEMENT RESPONSE



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Response to the Legislative Audit

Finding 1: The WVDE calculation of the Public School Support Plan (State Aid) formula during FY 2009 through 2015 resulted in 65% of county school districts being underfunded a total of approximately \$51.7 million.

Phase-in of New Method

To fully understand the implications of this finding, it is important to note that the Legislature appropriated the state aid funding amounts calculated by WVDE and the full amount of those funds were distributed to the county boards of education in accordance with the calculations. The underfunding amounts calculated by the Legislative Auditor were never appropriated to the WVDE. Had WVDE performed the calculations based on the Legislative Auditor's interpretation of the phase-in provisions, the Legislature would have needed to appropriate the additional funds. This may or may not have been possible given the financial concerns about the cost of the proposed changes to the funding formula.

It is also important to note that the final year of the phase-in of the new funding formula was fiscal year 2013. The new funding formula calculations have been utilized since that time, so any misinterpretation of how the changes should have been phased-in is not ongoing.

The WVDE believes that the language contained in WVC § 18-9A-3a leaves room for differing interpretations as to how the phase-in of the funding formula should have been calculated. WVDE was actively involved with the work of the joint legislative committee that studied the Public School Support Plan (PSSP) during the three-year study of the plan, as well as with both education committees during the 2008 legislative session when HB 4588 was adopted. Not only did the WVDE prepare numerous cost estimates and summaries regarding various proposals that were discussed during the period, but WVDE was also provided the opportunity to offer suggestions on areas that warranted attention. Because of the total projected costs of the final changes being proposed to the PSSP, it was determined that such recommended changes could only be financially feasible if they were phased in over multiple years, first a three-year phase-in and then extended to a five-year period. And although the Legislative Audit Report is now indicating that the phase-in was not implemented in accordance with the provisions of WVC §18-9A-3a, which has subsequently being repealed, the WVDE strongly feels that the phase-in was implemented in accordance with the intent of both the Legislature and Governor and the financial projections developed during that period.

WVDE's interpretation of the phase-in language was consistently applied during the preparation of all funding estimates during the 2008 legislative session. In the 2008 Green Book published on the WVDE website and provided to the Legislature and the county boards of educations, WVDE's interpretation of the phase-in provisions of HB 4588 was summarized as follows:

"Phases in the allowances differentials between the current formula and the revised formula over a five-year period by requiring that the computations under PSSP be performed under both methods during the five years and providing one-fifth of the allowance increase between the two methods the first year, two-fifths of the increase the second year, three-fifths of the increase the third year, four-fifths of the increase the fourth year; and the full increase the fifth year."



“Holds harmless any county board that is projected to receive less state aid as a result of implementing these revised provisions during the five year phase-in period by providing the same level of funding that the district would have received under the provisions of the PSSP prior to the changes.”

This summary clearly indicates that WVDE’s interpretation was that each allowance should be the total of the old method plus the applicable percentage of the growth between the two methods, unless a hold harmless provision applied. This interpretation was how WVDE actually implemented the five-year phase-in period from 2009 to 2013. The calculations during that period were not questioned by the county boards of education – even by those which have been identified by the Legislative Auditor as being underfunded as a result of WVDE’s interpretation.

Allowance for Service Personnel

During the phase-in of the new funding formula, WVDE increased the personnel limits for service personnel by five one-hundredths per year (0.05) per one thousand students in net enrollment for fiscal years 2010, 2011, 2012 and 2013. The service personnel limits for fiscal years 2014 and 2015 have remained the same since then.

WVDE increased the personnel limits for service personnel because it was the Department’s understanding at the time that the personnel funding limits for all three personnel categories – professional educators, service personnel and professional student support personnel - were to be increased. All of the proposals discussed and cost estimates developed during the study of the funding formula included increasing the service personnel funding ratios by the same factors as the ratios for professional educators, which ended up being an increase of five one-hundredths (0.05) per year over the five-year period. The WVDE feels that the lack of a provision in WVC §18-9A-5 to increase the funding limits for service personnel over the phase-in period was an inadvertent omission in the crafting of HB 4588 rather than an intentional act.

It is the WVDE’s recommendation that WVC 18-9A-5 be amended during the 2016 legislative session to reflect the actual personnel funding limits for service personnel that have been in effect since FY 2013. Failure to do so will result in a reduction in the number of service personnel being funded for the 2016-17 year, as compared to the number funded for the current year.

Allowance for Professional Student Support Personnel

During the initial study of the PSSP, the proposals included providing an allowance for counselors, nurses and technology systems specialists at specified funding ratios; however, the specified ratios were deleted during the legislative process and the proposal was changed to base the allowance on the number of counselors and nurses employed during the 2007-08 year, with an increase in the allowance by one-half percent (0.05%) during the phase-in. The WVDE, however, calculated the allowance by increasing the number of personnel allowed for funding by one-half percent each year. Although the audit report does not indicate what the difference in funding for this step would be under the two scenarios, the WVDE believes that any differences would be insignificant for the entire audit period.

Incidentally, the funding for counselors and nurses has remained at the dollar amount as for the 2012-13 year, as prescribed by WVC §18-9A-8(a)(5). The WVDE believes that specifying a stated dollar amount in Code is problematic for several reasons. The allowance does not increase in future years, even to take into account salary increases granted by the Legislature. In addition, the allowance does not change

for the county boards with significant increases in student enrollment, such as Monongalia or Berkeley, or conversely decrease for county boards incurring decreases in enrollment.

It is the WVDE's recommendation that WVC §18-9A-8(a)(5) be revised to base the funding for student support personnel on a funding ratio per each 1,000 students, similar to how professional and service personnel are funded, to account for changes in student enrollment, as well as other factors.

Multi-County Vocational Center (MCVC) Adjustment

WVDE agrees that the language contained in WVC 18-9A-4(c) and (d) regarding the calculation of the professional instructional (PI) penalty and its application as a reduction of the allowance for professional educators does not specifically address the proration of MCVC professional instructional personnel among the participating counties. However, according to WVC §18-9A-4, professional instructional personnel are a subcategory of professional educators. In calculating the number of professional educators to be funded, WVC 18-9A-4(a)(4) states the following in regards to the professional educators employed by MCVCs:

“Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.”

Failure to prorate the MCVC PI personnel among the participating counties would result in unintended adverse consequences. For example, the fiscal agent county board, which is the county in which the MCVC is located, would receive full credit for all PI personnel employed by the MCVC. This would allow the seven (7) fiscal agent county boards to count all such personnel in the number required to meet its minimum required PI ratio per each 1,000 in student enrollment, thus enabling these county boards to employ a disproportionate number of administrative personnel. Conversely, the remaining thirteen (13) participating county boards would not be able to count any such personnel in meeting their PI minimum required ratio, even though such personnel are providing education services to students from that county board. As a result, the non-fiscal agent county boards would either be faced with a financial penalty for failing to meet the required PI ratios, or be forced to hire additional professional instructional personnel, in most all cases in excess of the total number of professional educators allowed for funding, to meet the required ratio.

It should be noted that the audit cited this finding for fiscal years 2014 and FY 2015 only, but the PI proration calculation has been performed the same way for at least the past 25 years, based on the WVDE's interpretation of the applicable code sections. In addition, as a result of the hold harmless clauses included in HB4588, there would not have been any penalties imposed during the five-year phase-in period as a result of a change in the interpretation of this provision.

It is the WVDE's recommendation that WVC §18-9A-4(c) and (d) be revised to clarify that both professional educator and professional instructional personnel be prorated among the county boards participating in a MCVC.

Finding #2: Funds were not transferred to the School Building Capital Improvements Fund

WVDE concurs that WVC §18-9A-10(b) specifies that the funds appropriated to cover the debt service obligation on bonds issued by the School Building Authority (SBA) should be transferred into the School Construction Fund. However, since the SBA is under the same state agency organization code as the WVDE, and the WVDE performs many accounting functions for the SBA, the SBA has access to the department's accounts, and therefore has access to the state aid funds as soon as they are available for distribution.

The funds were made available to the SBA on the 30th day of each month for the entire period of the audit, in accordance with WVDE's expenditure schedule approved by the State Budget Office. State agencies do not have the authority to make fund transfers and distributions at will; such transactions must be done in accordance with the agency's expenditure schedule approved by the State Budget Office. Since state aid payments are comprised of such large dollar amounts, the State Budget Office must take into account the State's projected cash flow each year before granting approval.

WVDE will begin transferring the funds into the School Construction Fund as soon as the funds become available per the approved expenditure schedule. Furthermore, to enhance internal accounting controls, the WVDE recommends that the State Budget Office take the necessary steps to establish a separate organization code for the School Building Authority, since it has a separate governing board.

Informational Item 1: WVDE Treated Salary Bonuses and Supplements for Certifications Inconsistently

Although WVDE agrees that a written procedure would be beneficial, there are legitimate reasons why the allowances for salary supplements and bonuses are handled differently. For example:

- For the classroom teachers who hold an unexpired certificate issued by the National Board of Professional Teaching Standards (NBPTS) as of October 1 each year, and are therefore entitled to the \$3,500 state salary supplement, the supplements are included in the certified list of personnel and flow through the teacher distribution summary (scattergram) process to compute the total allowance for professional educators for each county board. The teachers and counselors who possess the certificate are known at the time of submission of the certified list data files.
- The classroom teachers who are newly certified by the NBPTS during the first year, however, have not been identified by the NBPTS at the time the certified list of personnel is due for submittal. The NBPTS normally does not release the names of recently certified teachers until late November or December each year. Consequently, to ensure that the county boards receive the funding to which they are entitled in the following fiscal year, the \$3,500 allowance for these teachers is added to each respective county's allowance for professional educators manually via Excel spreadsheet. Given the December 15th deadline for submittal of the WVDE's appropriation request for state aid each year, there would be insufficient time to have each county enter the data in their certified list of personnel and resubmit the data files.
- The salary supplements for speech language pathologists, audiologists, counselors, psychologists and nurses are also handled as a separate addition to each county's allowance for professional educators because WVC 18A-4-2b(d) limits the increase in the number of personnel eligible for the \$2,500 salary supplement, initially to 100 per year and subsequently increased to 115 per year. Each county board does not have the data on the total number of such eligible personnel employed

statewide to make a determination as to who is actually eligible for the supplement in any particular year.

- WVC 18A-4-3 specifies that the principals increment is an additional allowance for all principals and assistant principals based on the number of personnel they supervise; therefore, the calculations must be performed separately and not included in the computation in the average state funded salary allowance for each county board to determine the funding reduction for the professional personnel employed by a particular county board in excess of allowed.

WVDE will develop a written procedure regarding the treatment of the different salary supplements and bonuses allowed under WVC 18A-4-2a (the \$3,500 supplement for teachers and counselors with NBPTS certification); 18A-4-2b (the \$2,500 supplement for nationally recognized certificates for Speech-Language Pathology, Audiology, Counseling, School Psychology or School Nursing); and 18A-4-3 (the principal and assistant principals' salary increment). Internal controls will be included to ensure that the salary supplements and bonuses are not funded through state aid for individuals employed by federal grants, state grants or local funds.

Informational Item 2: Code Governing the Retirement Allowance Not Updated to Include Professional Student Support Personnel

WVDE agrees with the recommendation of the Legislative Auditor that the Legislature amend WVC §18-9A-6a to include the professional student support personnel in the calculation of the allowance for the teachers retirement fund. WVDE believes that this was an inadvertent omission when the PSSP was revised to split the counselors and nurses out of the professional educator category and into their own separate category as professional student support personnel. The Consolidated Public Employees Retirement Board includes these personnel in its actuarial calculations in determining the amount of state aid funding that is required to be appropriated each year for the Teachers' Retirement System.

Conclusion:

In closing, the WVDE would like to emphasize that the purpose of the preceding responses is to illustrate that errors, omissions and conflicts do exist in the statutes regarding the PSSP, which create situations for varying interpretations. In such instances, the statutes were interpreted and the changes to the state aid funding formula were implemented in accordance with what the WVDE felt was the intent of the Legislature.

APPENDIX D AUDITOR'S RESPONSE TO MANAGEMENT

Phase-in of New Method

While the WVDE states in their response that, "The new funding formula calculations have been utilized since that time [*Fiscal Year 2013*], so any misinterpretation of how the changes should have been phased-in is not ongoing.", this is not reflective of the fact that the errors made in prior years due to this misinterpretation still have a significant impact on the funding formula in current years. An example is the fact that the WVDE still uses the erroneous Allowance for Professional Student Support Personnel amount in each year subsequent to 2013 and this erroneous amount is also used other steps of the calculation.

The WVDE also states in their response that no county board questioned the funding amounts or calculations made by the WVDE during years 2009 through 2015. It is important to note that these same county boards were instructed on how to perform these calculations by the WVDE in a conference specifically covering the State Aid formula changes per the amendments noted in this report. The methods that county boards were instructed on by the WVDE were the same methods that the Legislative Auditor found to be in error.

The WVDE sites a summary of House Bill 4588 as their justification for the phase-in method they employed. This summary cited in their response is part of the *Major Provisions* section of HB 4588 and is not the actual WV Code. The actual code that lists the phase-in requirements in detail is located in WV Code §18-9A-3a, also included in Appendix B of our report. While this summary may generalize the intent, the intent is not what should have been used by the WVDE, rather the actual WV Code detailing the phase-in method.

Allowance for Professional Student Support Personnel

The WVDE States in their response that, "Although the audit report does not indicate what differences in funding for this step would be under the two scenarios, the WVDE believes that any differences would be insignificant for the entire audit period." This is misleading in the fact that this is the error that has the most effect moving forward into years 2014 and 2015 after the phase-in was repealed. This is due to the fact that for years 2009 through 2013 the WVDE calculated this allowance in error. These errors also flow through the formula producing errors in other steps of the calculation. In 2013 the erroneously calculated Allowance for Professional Student Support personnel was the allowance amount used for years 2014, 2015, and all subsequent years. The combined effect of these errors are therefore significant to our audit period and subsequent periods.