

FILE COPY

JOINT COMMITTEE ON
GOVERNMENT AND FINANCE

Materials Distributed

January 8, 2008

December 11, 2007

3:00 - 4:00 p.m.

Joint Committee on Government and Finance

Senate

Tomblin, Chair
Chafin
Helmick
Kessler
Sharpe (absent)
Caruth (absent)
Deem

House

Thompson, Chair
Caputo
DeLong
Webster
White
Armstead
Border

Speaker Thompson, Cochair, presided.

1. Approval of Minutes

Upon motion by President Tomblin, properly adopted, the minutes of the November 28, 2007, meeting were approved.

2. Committee Reports/Requests

None.

3. Lottery, General Revenue Reports and Unemployment Compensation Trust Fund

Distributed to members of the Committee were the following: Lottery Operations report for the month ended October 31, 2007; General Revenue Fund status report as of November 30, 2007 and the Unemployment Compensation Trust Fund status report as of September 30, 2007. Distributed with each of the reports were an analysis and a summary of the reports.

4. Workers' Compensation

A Workers' Compensation report was distributed. Jane Cline, Insurance Commissioner, gave the latest updates on Workers' Compensation and answered questions. Commissioner Cline said there are about 3100 old fund cases before the Supreme Court.

5. PEIA, BRIM and CHIP Reports

The following monthly PEIA reports were distributed: Financials for August 2007 and the Prescription Drug Report for October 2007. Robert Ferguson, Cabinet Secretary, Department of Administration, said PEIA is trending about 7 percent in claim costs more this year than last year. Delegate Caputo requested information on number of retirees who have been added back into PEIA for each month and why they were added back. Delegate DeLong asked for updates on changes in MAPD program for retirees.

The following BRIM reports were distributed: An unaudited balance sheet and unaudited income statement for the period ending October 31, 2007. Senate Bill 3 has a deficit in excess of \$3 million.

The following reports from CHIP were distributed: A report of enrollment for November 2007 and financial statements for period ending October 31, 2007.

6. **Leasing Report, Department of Administration**

A leasing report for the period of November 15, 2007 through December 4, 2007 was distributed. Secretary Ferguson said there have been 3 new contracts, 13 straight renewals and 2 renewals with rent increases and 1 adding some square footage.

7. **Department of Health and Human Resources (DHHR) Monthly Reports**

No report this month.

8. **Monthly Report on the Pharmaceutical Cost Management Council**

Shana Phares, Governor's Pharmaceutical Advocate and Chair of the Pharmaceutical Cost Management Council, reported to the Committee.

9. **Board of Treasury Report Distribution**

10. **Scheduled Interim Dates**

January 6 - 8, 2008

The meeting was adjourned.

WEST VIRGINIA LEGISLATURE
Parks, Recreation and Natural Resources Subcommittee

Building 1, Room E-132
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610
(304) 347-4800
(304) 347-4819 FAX



John Pat Fanning, Chair
State Senate

Jeff Eldridge, Cochair
Danny Wells, Cochair
House of Delegates

DATE: JANUARY 8, 2008
TO: JOINT COMMITTEE ON GOVERNMENT AND FINANCE
FROM: PARKS, RECREATION AND NATURAL RESOURCES SUBCOMMITTEE
RE: SITE VISITATION EXPENSE REIMBURSEMENT

The Parks, Recreation and Natural Resources Subcommittee requests expense reimbursement for site visitations to Canaan Valley State Park and Blackwater Falls State Park on January 25, 26 and 27.



WEST VIRGINIA LEGISLATURE
STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25305

January 2, 2008

The Honorable Earl Ray Tomblin
Chairman, Joint Committee on Government and Finance
RM 227M, Main Capitol Building
1900 Kanawha Blvd., E.
Charleston, WV 25305

The Honorable Richard Thompson
Chairman, Joint Committee on Government and Finance
RM 228, Main Capitol Building
1900 Kanawha Blvd., E.
Charleston, WV 25305

Dear Chairmen,

The Interim Committee on the Equal Pay Commission is requesting an increase in budget funding from \$250,000.00 to \$600,000.00 for the upcoming year. It is the hope of the Equal Pay Commission that this increase will be matched by further federal funding and used to address salary inequalities within the state. The combination of general revenue funds with special and federal funds available for affected positions has, on average, provided double the money to employees. That is, for every general revenue dollar appropriated for pay equity, two dollars go to employees.

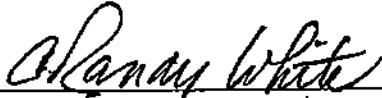
After nine years of operation, the Equal Pay Commission has concluded that the current level of funding used to draw down federal dollars for distribution to workers needs to be increased. Although the Commission's current budget of \$250,000.00 with added federal dollars has helped to close the gender wage gap among state workers, this funding does not go far enough to help many other state workers who are also eligible each year for this modest salary adjustment.

By increasing the State's funding commitment to \$600,000.00, more federal dollars can be leveraged, resulting in a broader impact on the old gender inequities among state workers. The West Virginia Legislature has taken a strong stance on the issue by passing the Equal Pay Act, establishing the Equal Pay Commission and by distributing salary adjustments in the amount of 3.4 million to more than an average of 1,500 employees each year, over the past six years.

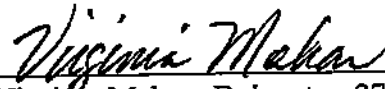
The ideal of equal pay for equal work can be a reality for West Virginia state employees, but without additional funding that goal may take decades to achieve. Therefore, the members of the Equal Pay Commission request that the Joint Committee on Government and Finance increase the Commission's state funding to \$600,000.00 for the next fiscal year.

We appreciate your consideration in this matter.

Best Regards,



C. Randy White, Senator - 11th District
Co-Chair, Equal Pay Commission



Virginia Mahan, Delegate - 27th District
Co-Chair, Equal Pay Commission



WEST VIRGINIA LEGISLATURE
STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25306

To: Speaker Richard Thompson
President Earl Ray Tomblin
Aaron Allred
From: Select Committee B- Veterans' Issues Co-Chairs
Date: January 4, 2007
RE: Letter and presentation to the Joint Committee

Please find the enclosed letter to Brian Noland, Chancellor of the West Virginia Higher Education Policy Commission, concerning adding social workers and psychologists to the Health Sciences Scholarship Program (HSSP). We would appreciate presenting this before the Joint Committee and requesting their permission to send this to Mr. Noland. It is enclosed for your review.

Thank you.



WEST VIRGINIA LEGISLATURE
STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25305

January 2, 2007

Brian Noland
Chancellor
West Virginia Higher Education Policy Commission
1018 Kanawha Blvd E., Suite 700
Charleston, WV 25301

Dear Chancellor Noland,

On behalf of the Legislative Interim Select Committee B- Veterans' Issues, we are writing to you today to request your consideration of the following:

Please consider declaring the social work and clinical psychology disciplines as "shortage fields" so that they may be eligible for the Health Sciences Scholarship Program (HSSP) established under West Virginia Code §18C-3-3.

As Co-Chairmen of Select Committee B, we have heard testimony from various individuals during the Interim period about the mental health of our State's veterans. We strongly feel that by including students studying mental health care in the HSSP, more aid can be given to these veterans, especially those in rural areas.

Thank you for your consideration of this matter. If you have any questions, please do not hesitate to call upon us.

Sincerely,


Co-Chairman Jon Blair Hunter Co-Chairwoman Barbara Fleischauer Co-Chairman Richard J. Laquinta

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor

Budget Division
Building 1, Room 332-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590
January 3, 2008



304-347-4870

Executive Summary of Lottery, Unemployment, General Revenue and State Road Fund Reports to Joint Committee

Lottery Commission as of November 30, 2007 :

Appears to be in good condition. Gross profit for the months of July - November of fiscal year 2007-2008, was \$ 266 million which was -1.02% below the same months of fiscal year 2006-2007.

General Revenue Fund as of December 31, 2007:

Collections were at 102.85% of the yearly estimate as of December 31, 2007.

State Road Fund as of December 31, 2007:

Fund collections were at 95.57% of the yearly estimate. Category below estimate was the gasoline and motor carrier road tax which reflects a decrease in gallons of motor fuel sold.

Unemployment Compensation Trust as of October 31, 2007:

Overall ending trust fund balance was \$ 7.6 million greater on October 31, 2007 than on October 31, 2006.

Joint Committee on Government and Finance

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor

Budget Division
Building 1, Room 332-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590



304-347-4870

MEMORANDUM

To: Honorable Senate President Tomblin
Honorable House of Delegates Speaker Thompson
Honorable Members of the Joint Committee on Government and
Finance

From: Ellen Clark, CPA *EC*
Director Budget Division
Legislative Auditor's Office

Date: January 5, 2008

Re: Review of West Virginia Lottery Financial Information
As of November 30, 2007 (FY 2008)

We performed an analysis of the Statement of Revenues, Expenses and Retained Earnings for the fiscal year months July - November 30, 2007, for fiscal year ended June 30, 2008, from monthly unaudited financial reports furnished to our office by the West Virginia Lottery Commission. The results are as follows:

Lottery Revenues:

Gross lottery revenues are receipts from on-line games, instant games and video lottery. These gross receipts totaled \$629,816,000.00 for the months of July - November 2007. These gross receipts were \$653,346,000.00 for July - November of the preceding fiscal year, 2006-2007. This number does not include commission and prize deductions. Gross profit (Gross revenues minus commissions and prize costs) for July - November 2007 was \$266,058,000.00; for the previous July - November it was \$268,792,000.00. Expressed as a percentage, gross profit is

Joint Committee on Government and Finance

Lottery continued

-1.02% lower for fiscal year 2008 than for fiscal year 2007.

(Lottery income is expected to decrease this fiscal year and the FY 2008 budget appropriations in the excess lottery revenue surplus section were decreased approximately \$ 60 million dollars from the FY 2007 appropriations in anticipation of this decrease. The decreases will be caused by competition from neighboring states that have just legalized their lotteries or are expanding their lottery business.)

Operating Income:

Operating income was \$ 257,608,000.00 for July - November 2007. For July - November 2006 it was \$ 260,713,000.00. This was a decrease of -1.19%. After additions and subtractions of non-operating income and expenses, distributions to the state were \$256,316,000.00.

Operating Transfers to the State of West Virginia:

A total of \$256,316,000.00 has been accrued to the state of West Virginia for fiscal year 2007-2008. This is on an accrual basis and may not correspond to the actual cash transfers made during the same time period. (Amounts owed to the different accounts according to the Lottery Act are calculated monthly and accrued to the state; actual cash transfers are often made based upon actual cash flow needs of the day-to-day operation of the lottery.)

A schedule of cash transfers follows:

Bureau of Senior Services	\$ 50,542,000.00
Department of Education	\$ 30,000,000.00
Library Commission	\$ 9,057,000.00
Higher Education-Central Office	\$ 16,630,000.00
Tourism	\$ 6,826,000.00
Department of Natural Resources	\$ 2,953,000.00
Division of Culture and History	\$ 4,749,000.00

Lottery continued

Department of Education and Arts	\$ 1,226,000.00
State Building Commission	\$ 5,000,000.00
School Building Authority	\$ 9,000,000.00
<u>SUBTOTAL BUDGETARY TRANSFERS</u>	\$135,983,000.00

Excess Lottery Fund

General Purpose Fund	35,521,000.00
Economic Development Fund	9,500,000.00
Traffic Fund	0
Excess Lottery Surplus	0
Education Improvement Fund	5,000,000.00
WV Infrastructure Council Fund	0
Higher Education Improvement Fund	27,000,000.00
State Park Improvement Fund	0
Refundable Credit	307,000.00
School Building Authority	0.00
TOTAL EXCESS LOTTERY FUND	77,328,000.00

House Bill 2007	2,000,000.00
Veterans Instant Ticket Fund	321,000.00
Table Games State Debt Reduction Fund	98,000.00

RACETRACK VIDEO LOTTERY TRANSFERS:	
Tourism Promotion Fund 1.375%	\$5,041,000.00
Development Office Promo Fund	\$1,375,000.00

Lottery continued

Research Challenge Fund .5%	\$1,833,000.00
Capitol Renovation and Improvement Fund .6875%	\$2,521,000.00
Parking Garage Fund .0625%	\$229,000.00
Parking Garage Fund 1%	\$500,000.00
Cultural Facilities and Cap. Resources Fund .5%	\$1,500,000.00
Capitol Dome & Cap. Improvements Fund .5%	\$1,666,000.00
Workers Compensation Debt Reduction Fund 7%	\$11,000,000.00
SUBTOTAL VIDEO LOTTERY TRANSFERS:	\$25,665,000.00
TOTAL TRANSFERS	*\$241,395,000.00

* CASH BASIS

Total Accrued last FY 2007:	180,178,000.00
Total Cash Distributions July-Nov. :	241,395,000.00
Applied to FY 2007:	180,178,000.00
Total Accrued for FY 2008:	256,316,000.00
Total Applied to FY 2008:	61,217,000.00
Accrued for FY 2008 as of Nov. 30, 2007:	195,099,000.00



WEST VIRGINIA LOTTERY

STATE OF WEST VIRGINIA

FINANCIAL STATEMENTS
-UNAUDITED-

November 30, 2007

WEST VIRGINIA LOTTERY

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WEST VIRGINIA LOTTERY
BALANCE SHEETS
(In Thousands)
-Unaudited-

	November 30, 2007	June 30, 2007
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 228,068	\$ 204,122
Accounts receivable	24,818	33,095
Inventory	597	433
Current portion of investments held in trust	10	23
Other assets	<u>1,326</u>	<u>1,163</u>
Total Current Assets	<u>254,819</u>	<u>238,836</u>
Noncurrent Assets:		
Restricted cash and cash equivalents	30,934	30,367
Investments held in trust, less current portion	118	281
Capital assets	13,066	13,066
Less accumulated depreciation and amortization	<u>(11,824)</u>	<u>(11,615)</u>
Net Capital Assets	<u>1,242</u>	<u>1,451</u>
Total Noncurrent Assets	<u>32,294</u>	<u>32,099</u>
Total Assets	<u>\$ 287,113</u>	<u>\$ 270,935</u>
LIABILITIES AND NET ASSETS		
Current Liabilities:		
Accrued nonoperating distributions to the State of West Virginia	\$ 193,099	\$ 180,178
Estimated prize claims	14,455	13,592
Accounts payable	2,266	1,452
Other accrued liabilities	31,114	31,926
Current portion of deferred jackpot prize obligations	<u>123</u>	<u>159</u>
Total Current Liabilities	<u>243,057</u>	<u>227,307</u>
Deferred jackpot prize obligations, less current portion	<u>-</u>	<u>139</u>
Total Liabilities	<u>243,057</u>	<u>227,446</u>
Net Assets:		
Invested in capital assets	1,242	1,451
Unrestricted assets (deficit)	(742)	(931)
Unrestricted assets- Committed (see note 11)	12,622	12,622
Restricted assets (see note 10)	<u>30,934</u>	<u>30,367</u>
Total Net Assets	<u>44,056</u>	<u>43,489</u>
Total Liabilities and Net Assets	<u>\$ 287,113</u>	<u>\$ 270,935</u>

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET ASSETS
FOR THE FIVE MONTH PERIOD ENDED NOVEMBER 30, 2007

(In Thousands)

-Unaudited-

	CURRENT MONTH		YEAR TO DATE	
	2007	2006	2007	2006
Lottery revenues				
On-line games	\$ 7,432	\$ 6,420	\$ 37,134	\$ 36,389
Instant games	7,596	8,525	44,932	43,324
Racetrack video lottery	70,561	77,071	381,778	412,895
Limited video lottery	33,335	32,085	165,299	158,738
Table games	486	-	673	-
	<u>119,410</u>	<u>124,101</u>	<u>629,816</u>	<u>653,346</u>
Less commissions				
On-line games	520	449	2,600	2,547
Instant games	532	597	3,146	3,173
Racetrack video lottery	38,867	43,166	221,441	242,231
Limited video lottery	17,641	16,980	83,624	84,004
Table games	191	-	264	-
	<u>57,751</u>	<u>61,192</u>	<u>311,075</u>	<u>331,955</u>
Less on-line prizes	3,643	3,300	18,634	18,532
Less instant prizes	3,298	5,787	31,051	31,013
Less ticket costs	143	124	662	651
Less vendor fees and costs	422	424	2,336	2,403
	<u>9,506</u>	<u>9,635</u>	<u>52,683</u>	<u>52,599</u>
Gross profit	<u>52,153</u>	<u>53,274</u>	<u>266,058</u>	<u>268,792</u>
Administrative expenses				
Advertising and promotions	990	493	4,393	3,547
Wages and related benefits	531	555	2,653	2,516
Telecommunications	164	205	1,026	965
Contractual and professional	408	728	1,479	1,679
Rental	84	53	270	258
Depreciation and amortization	37	48	210	231
Other administrative expenses	98	81	699	459
	<u>2,312</u>	<u>2,163</u>	<u>10,730</u>	<u>9,655</u>
Other Operating Income	<u>78</u>	<u>77</u>	<u>2,280</u>	<u>1,576</u>
Operating Income	<u>49,919</u>	<u>51,188</u>	<u>257,608</u>	<u>260,713</u>
Nonoperating income (expense)				
Investment income	944	372	4,927	3,314
Interest expense	(1)	(3)	(7)	(19)
Distributions to municipalities and counties	(653)	(629)	(3,239)	(3,111)
Distributions to racetracks-capital reinvestment	(1,487)	(1,442)	(2,406)	(2,133)
Distributions to the State of West Virginia	(48,600)	(49,399)	(256,316)	(238,561)
	<u>(49,797)</u>	<u>(51,101)</u>	<u>(257,041)</u>	<u>(260,510)</u>
Net income	<u>122</u>	<u>87</u>	<u>567</u>	<u>203</u>
Net assets, beginning of period	43,934	20,366	43,489	20,250
Net assets, end of period	\$ <u>44,056</u>	\$ <u>20,453</u>	\$ <u>44,056</u>	\$ <u>20,453</u>

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY
STATEMENTS OF CASH FLOWS
FOR THE FIVE MONTH PERIOD ENDED NOVEMBER 30, 2007

(In Thousands)

-Unaudited-

	2007	2006
Cash flows from operating activities:		
Cash received from customers and other sources	\$ 640,372	\$ 656,910
Cash payments for:		
Personnel costs	(2,653)	(2,516)
Suppliers	(7,223)	(7,350)
Other operating costs	(365,677)	(374,129)
Cash provided by operating activities	<u>264,819</u>	<u>272,915</u>
Cash flows from noncapital financing activities:		
Nonoperating distributions to the State of West Virginia	(241,395)	(356,431)
Distributions to municipalities and counties	(3,226)	(3,095)
Distributions to racetrack from racetrack cap. reinv. fund	(782)	(17,931)
Deferred jackpot prize obligations and related interest paid	(7)	(19)
Cash used in noncapital financing activities	<u>(245,410)</u>	<u>(377,476)</u>
Cash flows from capital and related financing activities:		
Purchases of capital assets	-	(904)
Cash flows from investing activities:		
Maturities of investments held in trust	182	324
Investment earnings received	4,922	3,098
Cash provided by investing activities	<u>5,104</u>	<u>3,422</u>
Increase (decrease) in cash and cash equivalents	24,513	(102,043)
Cash and cash equivalents - beginning of period	234,489	197,719
Cash and cash equivalents - end of period	<u>\$ 259,002</u>	<u>\$ 95,676</u>
Reconciliation of operating income to net cash provided by operating activities:		
Operating income	\$ 257,608	\$ 260,713
Adjustments to reconcile operating income to cash provided by operating activities:		
Depreciation and amortization	210	231
Changes in operating assets and liabilities:		
(Increase) decrease in accounts receivable	8,277	1,987
(Increase) decrease in inventory	(164)	85
(Increase) decrease in other assets	(163)	690
Increase (decrease) in estimated prize claims	863	358
Increase (decrease) in accounts payable	815	(1,279)
Increase (decrease) in other accrued liabilities	(2,627)	10,130
Cash provided by operating activities	<u>\$ 264,819</u>	<u>\$ 272,915</u>

The accompanying notes are an integral part of these financial statements.

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 1 - LEGISLATIVE ENACTMENT

The West Virginia Lottery (Lottery) was established by the State Lottery Act (Act) passed April 13, 1985, which created a special fund in the State Treasury designated as the "State Lottery Fund." The purpose of the Act was to establish and implement a state-operated lottery under the supervision of a state lottery commission (Commission) and a director. The Commission, consisting of seven members and the Director are appointed by the Governor. Under the Act, the Commission has certain powers and the duty to establish rules for conducting games, to select the type and number of gaming systems or games and to enter into contracts and agreements, and to do all acts necessary or incidental to the performance of its duties and exercise of its power and duty to operate the Lottery in a highly efficient manner. The Act provides that a minimum annual average of 45% of the gross amount received from each lottery shall be allocated for prizes and also provides for certain limitations on expenses necessary for operation and administration of the Lottery. To the extent available, remaining net profits are to be distributed to the State of West Virginia. As the State is able to impose its will over the Lottery, the Lottery is considered a component unit of the State and its financial statements are presented in the comprehensive annual financial report of the State as a blended proprietary fund component unit.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A summary of the significant accounting policies of the Lottery is presented below.

BASIS OF PRESENTATION - The West Virginia Lottery is a component unit of the State of West Virginia, and is accounted for as a proprietary fund special purpose government engaged in business type activities. In accordance with Governmental Accounting Standards Board (GASB) Statement No. 34, "Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments," and with accounting principles generally accepted in the United States of America, the financial statements are prepared on the accrual basis of accounting which requires recognition of revenue when earned and expenses when incurred. As permitted by Governmental Accounting Standards Board (GASB) Statement No. 20, "*Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*," the Lottery has elected not to adopt Financial Accounting Standards Board (FASB) statements and interpretations issued after November 30, 1989 unless the GASB specifically adopts such FASB statements or interpretations.

The Lottery is included in the State's basic financial statements as a proprietary fund and business type activity using the accrual basic of accounting. Because of the Lottery's presentation in these financial statements as a special purpose government engaged in business type activities, there may be differences in presentation of amounts reported in these financial statements and the basic financial statements of the State as a result of major fund determination.

USE OF ESTIMATES - The preparation of the financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make certain estimates and develop assumptions that affect the amounts reported in the financial statements and related notes to financial statements. Actual results could differ from management's estimates.

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

LOTTERY GAME OPERATIONS – The West Virginia Lottery derives its revenues from four basic types of lottery games: instant, on-line, video type games, and table games. The Lottery develops multiple game themes and prize structures to comply with its enabling legislation, including aggregate annual minimum prize provisions. All bonded retailers and agents comprised principally of grocery and convenience stores serve as the primary distribution channel for instant and on-line lottery sales to the general public.

The Lottery has contracted with a private vendor to manufacture, distribute, and provide data processing support for instant and on-line games. Under the terms of the agreements, the Lottery pays a percentage of gross revenues or gross profits for the processing and manufacture of the games.

Revenue from instant games is recognized when game tickets are sold to the retailers, and the related prize expense is recorded based on the specific game prize structure. Instant ticket sales and related prizes do not include the value of free plays issued for the purpose of increasing the odds of winning a prize.

Sales of on-line lottery tickets are made by licensed agents to the public with the use of computerized terminals. On-line games include POWERBALL®, a multi-state "jackpot" game; HOT LOTTO®, a multi-state "lotto" game; Cash25 "lotto" game; Daily 3 and 4 "numbers" games; and Travel, a daily "keno" game. Revenue is recognized when the agent sells the tickets to the public. Prize expense is recognized on the basis of actual drawing results.

Commissions are paid to instant game retailers and on-line agents at the rate of seven percent of gross sales. A portion of the commission not to exceed one and one quarter percent of gross sales may be paid from unclaimed prize moneys. The amount paid from unclaimed prize moneys is credited against prize costs. In addition, retailers and agents are paid limited bonus incentives that include prize shares on winning tickets they sold and a ticket cashing bonus on winning tickets they cash. On a weekly basis, retailers and agents must remit amounts due to the Lottery. Retailers may not be able to order additional instant tickets if payment has not been made for the previous billing period, while an agent's on-line terminal may be rendered inactive if payment is not received each week. No one retailer or agent accounts for a significant amount of the Lottery's sales or accounts receivable. Historically credit losses have been nominal and no allowance for doubtful accounts receivable is considered necessary.

Racetrack video lottery is a self-activated video version of lottery games. The board-operated games allow a player to place bets for the chance to be awarded credits which can either be redeemed for cash or be replayed as additional bets. The coin operated games allow a player to use coins, currency, or tokens to place bets for the chance to receive coin or token awards which may be redeemed for cash or used for replay in the coin operated games. The racetrack video lottery games' prize structures are designed to award prizes, or credits, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as racetrack video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to the private and local government entities are reported as commissions. Racetrack video lottery legislation has established specific requirements for racetrack video lottery and imposed certain restrictions limiting the licensing for operation of racetrack video lottery games to horse and dog

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

racetracks in West Virginia, subject to local county elections permitting the same. The legislation further stipulates the distribution of revenues from racetrack video lottery games, and requires any licensed racetrack to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

Limited video lottery is also a self-activated video version of lottery games, which were first placed in operation in December 2001, located in limited licensed retailer areas restricted for adult amusement. The games allow a player to use currency to place bets for the chance to receive free games or vouchers which may be redeemed for cash. The limited video lottery games' prize structures are designed to award prizes, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. The Lottery recognizes as limited video lottery revenue "gross terminal income" equivalent to all wagers, net of related prizes. Amounts required by statute to be paid to private entities are reported as commissions. Limited video lottery permit holders are statutorily responsible for acquiring equipment and bearing the risk associated with the costs of operating the games.

Table games are lotteries as each game involves consideration, the possibility of a prize, and their outcome is determined predominantly by chance, which the common law of West Virginia has long held are the three essential elements of a lottery. Table games are the exclusive intangible intellectual property of the state of West Virginia. Table games legislation has established specific requirements for table games and imposed certain restrictions limiting the licensing for operation of table games to horse and dog racetracks in West Virginia, subject to local county elections permitting the same. Each racetrack licensed as an agent of the Lottery Commission to operate West Virginia table games shall have written rules of play for each table game it operates which must be approved by the Commission. All wagers and pay-offs of winning wagers shall be made according to those rules of play. For the privilege of holding a table games license, there is levied a privilege tax of thirty-five percent of each licensee's adjusted gross receipts for the operation of West Virginia Lottery table games. Amounts required by statute to be paid to private and local government entities are reported as commissions. The legislation further stipulates the distribution of revenues from West Virginia table games, and requires any licensed racetrack to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing the games.

CASH AND CASH EQUIVALENTS - Cash and cash equivalents primarily consist of interest-earning deposits with the West Virginia Board of Treasury Investments (BTI) and are recorded at fair value.

INVENTORY - Inventory consists of instant game tickets available for sale to approved Lottery retailers and are carried at cost.

OTHER ASSETS - Other assets consist primarily of deposits restricted for payment of certain Multi-State Lottery Association activities.

CAPITAL ASSETS - The Lottery leases, under a cancelable operating lease, its office and warehouse facilities. Portions of these facilities were subleased to the Lottery's game vendor until January 31, 2007 at which time the Lottery took occupancy of the total facility. The Lottery also leases various office

WEST VIRGINIA LOTTERY
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NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

equipment under agreements considered to be cancelable operating leases. Rental expense for the five months ended November 30, 2007 and November 30, 2006 approximated \$269,872 and \$257,806, respectively. Sublease rental income for the five months ended November 30, 2007 and November 30, 2006 approximated \$0 and \$43,220, respectively.

The Lottery has adopted a policy of capitalizing assets with individual amounts exceeding \$25,000. These assets include leasehold improvements, contributed and purchased equipment, comprised principally of technology property, office furnishings and equipment necessary to administer lottery games, are carried at cost. Depreciation is computed by the straight-line method using three to ten year lives.

COMPENSATED ABSENCES – The Lottery has accrued \$298,548 and \$281,146 of vacation and \$467,954 and \$468,058 of sick leave at June 30, 2007 and 2006, respectively, for estimated obligations that may arise in connection with compensated absences for vacation and sick leave at the current rate of employee pay. Employees fully vest in all earned but unused vacation. In accordance with State personnel policies, employees hired prior to July 1, 2001, vest in unused sick leave only upon retirement, at which time such unused leave can be converted into employer paid premiums for post-retirement health care coverage or additional periods of credited service for purposes of determining retirement benefits. For employees hired prior to July 1, 1988, the Lottery pays 100% of the post-retirement health care premium. The Lottery pays 50% of the premium for employees hired after June 30, 1988 through July 1, 2001. The estimated obligation for sick leave is based on historical retirement rates and current health care premiums applicable to employee hire dates. Employees hired after June 30, 2001 do not vest in unused sick leave upon retirement.

NET ASSETS – Net assets are presented as restricted, unrestricted and invested in capital assets which represents the net book value of all property and equipment of the Lottery.

OPERATING REVENUES AND EXPENSES – Operating revenues and expenses for proprietary funds such as the Lottery are revenues and expenses that result from providing services and producing and delivering goods and/or services. Operating revenues for the Lottery are derived from providing various types of lottery games. Operating expenses include commissions, prize costs, other direct costs of providing lottery games, and administrative expenses. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

NOTE 3 - CASH AND CASH EQUIVALENTS

At November 30, 2007 the carrying amounts of deposits (overdraft) with financial institutions were (\$35) thousand with a bank balance of \$35 thousand. Of this balance \$100 thousand was covered by federal depository insurance with the remaining balance collateralized with securities held by the State of West Virginia's agent in the State's name.

A summary of the amount on deposit with the West Virginia Board of Treasury Investments (BTI) is as follows (in thousands):

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
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NOTE 3 - CASH AND CASH EQUIVALENTS (continued)

	<u>November 30, 2007</u>	<u>June 30, 2007</u>
Amount on deposit with the BTI	<u>\$259,037</u>	<u>\$234,497</u>

The deposits with the BTI are part of the State of West Virginia's consolidated investment cash liquidity pool and are not separately identifiable as to specific types of securities. Investment income is pro-rated to the Lottery at rates specified by the BTI based on the balance of the deposits maintained in relation to the total deposits of all state agencies participating in the pool. Such funds are available to the Lottery with overnight notice.

NOTE 4 - CAPITAL ASSETS

A summary of capital asset activity for the month ended November 30, 2007 is as follows (in thousands):

Capital Assets:	<u>Historical Cost At June 30, 2007</u>	<u>Additions</u>	<u>Deletions</u>	<u>Historical Cost At November 30, 2007</u>
Construction in Progress	\$ 443	\$ -	\$ -	\$ 443
Improvements	1,119	-	-	1,119
Equipment	11,504	-	-	11,504
	<u>\$ 13,066</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 13,066</u>
Accumulated Depreciation:	<u>Historical Cost At June 30, 2007</u>	<u>Additions</u>	<u>Deletions</u>	<u>Historical Cost At November 30, 2007</u>
Improvements	\$ 925	\$ 32	\$ -	\$ 957
Equipment	10,690	177	-	10,867
	<u>\$ 11,615</u>	<u>\$ 209</u>	<u>\$ -</u>	<u>\$ 11,824</u>

NOTE 5 - PARTICIPATION IN THE MULTI-STATE LOTTERY

The Lottery is a member of the Multi-State Lottery (MUSL), which operates the semi-weekly POWERBALL® jackpot lotto game and HOT LOTTO® game, on behalf of participating state lotteries. Each MUSL member sells game tickets through its agents and makes weekly wire transfers to the MUSL in an amount equivalent to the total prize pool less the amount of prizes won in each state. Lesser prizes are paid directly to the winners by each member lottery. The prize pool for POWERBALL®, and HOT LOTTO® is 50% of each drawing period's sales, with minimum jackpot levels. Revenues derived from the Lottery's participation in the MUSL POWERBALL® jackpot game for the month and year-to-date periods ended November 30, 2007 were \$4,684,012 and \$23,426,929

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
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NOTE 5 - PARTICIPATION IN THE MULTI-STATE LOTTERY (continued)

while related prize costs for the same periods were \$2,262,203 and \$11,630,642. Revenues derived from the Lottery's participation in the HOT LOTTO® game for the month and year-to-date periods ended November 30, 2007 were \$339,412 and \$1,630,105 while related prize costs for the same periods were \$164,203 and \$809,106.

MUSL places 2% of each POWERBALL® drawing period's sales in separate prize reserve funds that serve as a contingency reserve to protect the respective MUSL Product Groups from unforeseen prize liabilities. Currently, the MUSL Board of Directors has placed a \$75,000,000 limit on the POWERBALL® Prize Reserve Fund and a \$25,000,000 limit on the Set Prize Reserve Fund. These funds can only be used at the discretion of the respective MUSL Product Group. Once the prize reserve funds exceed the designated limit, the excess becomes part of that particular prize pool. Prize reserve fund monies are refundable to MUSL Product Group members if the MUSL disbands or, after one year, if a member leaves the MUSL. At November 30, 2007 the POWERBALL® prize reserve fund had a balance of \$95,163,439 of which the Lottery's share was \$2,279,750. The Lottery has charged amounts placed into the prize reserve funds to prize costs as the related sales have occurred.

NOTE 6 - RACETRACK VIDEO LOTTERY

The Racetrack Video Lottery legislation stipulates the distribution of racetrack video lottery revenues. This legislation has been amended since inception to restate revenue distribution based on revenue benchmarks. Initially, four percent (4%) of gross terminal revenue is allocated for lottery administrative costs. Sixty-six percent (66%) of net terminal revenue (gross less 4%) is allocated in lieu of commissions to: the racetracks (47%); other private entities associated with the racing industry (17%); and the local county and municipal governments (2%). The remaining revenues (34%) of net terminal revenue is allocated for distribution to State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in the Note 9 titled "Nonoperating Distributions to the State of West Virginia."

The first benchmark occurs when the current year net terminal revenue meets the fiscal year 1999 net terminal revenue. The counties and incorporated municipalities split 50/50 the two percent (2%) net terminal revenue.

The second benchmark occurs when the current year gross terminal revenue meets the fiscal year 2001 gross terminal revenue. The four percent (4%) is no longer allocated for lottery administrative costs; instead the State receives this for distribution as specified by legislation or the State budget.

The final benchmark occurs when the current year net terminal revenue meets the fiscal year 2001 net terminal revenue. At this point a 10% surcharge is applied to net terminal revenue, with 58% of the surcharge allocated for distribution to the State as specified by legislation or the State budget, and 42% of the surcharge allocated to separate capital reinvestment funds for each licensed racetrack. After deduction of the surcharge, 55% of net terminal revenue is allocated in lieu of commissions to: the racetracks (42%); other private entities associated with the racing industry (11%); and the local county and incorporated municipality governments (2%). The remaining net terminal revenue (45%) is

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 6 - RACETRACK VIDEO LOTTERY (continued)

allocated for distribution to the State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in Note 9. Amounts from the capital reinvestment fund may be distributed to each racetrack if qualifying expenditures are made within the statutory timeframe; otherwise amounts accumulated in the fund revert to the state excess lottery revenue fund.

The WV Lottery, along with the Rhode Island and Delaware lotteries, participate in Multi-Jurisdictional Wide Area Progressive (MWAP) video games. This allows each of the lotteries to offer a higher progressive jackpot than they could generate alone. MUSL manages the progressive games and charges each participant a MWAP contribution fee of 4% of the amount wagered. A summary of racetrack video lottery revenues for the month ended November 30, 2007 and year-to-date follows (in thousands):

	<u>Current</u> <u>2007</u>	<u>Month</u> <u>2006</u>	<u>Year- to -Date</u> <u>2007</u>	<u>2006</u>
Total credits played	\$728,688	\$810,262	\$3,998,006	\$4,367,091
Credits (prizes) won	(657,849)	(732,876)	(3,611,661)	(3,952,529)
MWAP Contributions	(278)	(315)	(1,567)	(1,667)
Gross terminal income	<u>\$70,561</u>	<u>\$77,071</u>	<u>\$381,778</u>	<u>\$412,895</u>
Administrative costs	(1,348)	(1,652)	(12,718)	(14,233)
Net Terminal Income	<u>\$69,213</u>	<u>\$75,419</u>	<u>\$369,060</u>	<u>\$398,662</u>
Less distribution to agents	(38,867)	(43,166)	(221,441)	(242,231)
Racetrack video lottery revenues	<u><u>\$30,346</u></u>	<u><u>\$32,253</u></u>	<u><u>\$147,619</u></u>	<u><u>\$156,431</u></u>

A summary of video lottery revenues paid or accrued for certain state funds to conform with the legislation follows (in thousands):

	<u>November 30, 2007</u>	<u>Year-to Date</u>
State Lottery Fund	\$ 9,702	\$92,764
State Excess Lottery Revenue Fund	16,590	27,020
Capital Reinvestment Fund	1,487	2,407
Tourism Promotion Fund 1.375%	883	4,961
Development Office Promotion Fund .375 %	241	1,354
Research Challenge Fund .5 %	321	1,803
Capitol Renovation & Improvement Fund .6875 %	441	2,480
Parking Garage Fund .0625 %	40	225
Parking Garage Fund 1 %	-	500
Cultural Facilities & Capitol Resources Fund .5 %	267	1,499
Capitol Dome & Capitol Improvements Fund .5 %	374	1,606
Worker's Compensation Debt Reduction Fund 7 %	-	11,000
Total nonoperating distributions	<u><u>\$30,346</u></u>	<u><u>\$147,619</u></u>

**WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-**

NOTE 7 - LIMITED VIDEO LOTTERY

Limited video lottery legislation passed in 2001 has established specific requirements imposing certain restrictions limiting the licensing for the operation of limited video lottery games to 9,000 terminals placed in licensed retailers. These licensed retailers must hold a qualifying permit for the sale and consumption on premises of alcohol or non-intoxicating beer. The Lottery has been charged with the administration, monitoring and regulation of these machines. The legislation further stipulates the distribution of revenues from the limited video lottery games, and requires any licensees to comply with all related rules and regulations of the Lottery in order to continue its retailer status. The Limited Video Lottery legislation stipulates that 2% of gross terminal income be deposited into the state lottery fund for administrative costs. Then, the state share percentage of gross profit is to be transferred to the State Excess Lottery Revenue Fund. Such percentage is between 30 and 50 percent and is subject to change on a quarterly basis. Two percent is distributed to counties and incorporated municipalities in the manner prescribed by the statute. The remaining amount of gross profit is paid to retailers and/or operators as prescribed in the Act, and is recorded as limited video lottery commissions in the financial statements. Municipal and county distributions are accounted for as nonoperating expenses. A summary of limited video lottery revenues for the month ended November 30, 2007 and year-to-date follows (in thousands):

	<u>Current</u> <u>2007</u>	<u>Month</u> <u>2006</u>	<u>Year-to-Date</u> <u>2007</u>	<u>2006</u>
Total credits played	\$399,662	\$388,958	\$2,005,639	\$1,937,070
Credits (prizes) won	<u>(366,327)</u>	<u>(356,873)</u>	<u>(1,840,340)</u>	<u>(1,778,332)</u>
Gross terminal income	\$33,335	\$32,085	\$165,299	\$158,738
Administrative costs	<u>(667)</u>	<u>(641)</u>	<u>(3,307)</u>	<u>(3,175)</u>
Gross Profit	\$32,668	\$31,444	\$161,992	\$155,563
Commissions	<u>(17,641)</u>	<u>(16,980)</u>	<u>(83,624)</u>	<u>(84,004)</u>
Municipalities and Counties	<u>(653)</u>	<u>(629)</u>	<u>(3,239)</u>	<u>(3,111)</u>
Limited video lottery revenues	<u>\$14,374</u>	<u>\$13,835</u>	<u>\$75,129</u>	<u>\$68,448</u>

NOTE 8 - TABLE GAMES

Table Games legislation passed in 2007 per House Bill 2718. Table games include blackjack, roulette, craps, and various types of poker. Each racetrack licensee is subject to a privilege tax of thirty five percent (35%) of adjusted gross receipts which will be deposited weekly into the Racetrack Table Games Fund.

From the gross amounts deposited into the Racetrack Table Games Fund, the Commission, on a monthly basis shall:

Retain 3% of the adjusted gross receipts for administrative expenses of which at least \$100,000 and not more than \$500,000 annually will be transferred to the Compulsive Gambling Treatment Fund. Transfer two and one-half percent of adjusted gross receipts from all thoroughbred racetracks with West Virginia

**WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-**

NOTE 8 - TABLE GAMES (continued)

Lottery table games to the special funds established by each thoroughbred racetrack table games licensee for the payment of regular racetrack purses to be divided equally among each licensee and transfer two and one-half percent of adjusted gross receipts from all greyhound racetracks with West Virginia Lottery table games to the special funds established by each greyhound racetrack table games licensee for the payment of regular racetrack purses to be divided equally among each licensee. Transfer two percent of the adjusted gross receipts from all licensed racetracks to the Thoroughbred Development Fund and the Greyhound Breeding Development Fund to be divided pro rata among the development funds. Transfer one percent of the adjusted gross receipts from each licensed racetrack to the county commissions of the counties where racetracks with West Virginia Lottery table games are located to be divided pro rata among the counties. Transfer two percent of the adjusted gross receipts from each licensed racetrack to the governing bodies of municipalities within counties where racetracks with West Virginia Lottery table games are located as prescribed by statute. And transfer one-half of one percent of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee is located to be divided equally among the municipalities. The Commission will distribute the remaining 24%, hereinafter referred to as the net amounts in the Racetrack Table Games Funds as follows:

- 1) Transfer four percent into a special fund to be established by the Racing Commission to be used for payment into the pension plan for all employees of each licensed racing association;
- 2) Transfer ten percent, to be divided and paid in equal shares, to each county commission in the state where table games are not located;
- 3) Transfer ten percent, to be divided and paid in equal shares, to the governing bodies of each municipality in the state where table games are not located; and
- 4) Transfer seventy-six percent to the State Debt Reduction Fund.

The cash transferred to the State Debt Reduction Fund in the current month is included in Note 9- Nonoperating Distributions to the State of West Virginia. The table games adjusted gross receipts for the month and year-to-date periods ended November 30, 2007 were \$1,387,199 and \$1,923,063, respectively. The following table shows the month and year -to- date totals of the privilege tax and the accrued distributions (in thousands) to be transferred in the subsequent month:

	<u>Month</u>	<u>YTD</u>
Table Games Privilege Tax	\$ 486	\$ 673
Administrative Costs	(42)	(58)
Total Available for Distribution	<u>444</u>	<u>615</u>
<u>Less Distributions:</u>		
Racetrack Purse Funds	35	48
Thoroughbred & Greyhound Development Funds	28	38
Racing Commission Pension Plan	13	18
Municipalities/Counties	<u>115</u>	<u>160</u>
Total Distributions	191	264
 State Debt Reduction Fund	 <u>\$ 253</u>	 <u>\$ 351</u>

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
 -Unaudited-

NOTE 9- NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA

The Lottery periodically distributes surplus funds, exclusive of amounts incurred and derived from limited video lottery and a portion of racetrack video lottery funds, to the State of West Virginia in accordance with the legislation. For the year ending June 30, 2008 the State Legislature budgeted \$169,932,463 of estimated profits of the Lottery for distributions to designated special revenue accounts of the State of West Virginia. With regard to the State Lottery Fund, legislation stipulates that debt service payments be given a priority over all other transfers in instances where estimated profits are not sufficient to provide for payment of all appropriated distributions. Debt service payments of \$1,800,000 and \$1,000,000 per month for the first ten months of each fiscal year currently have such priority. Transfers made pursuant to the State Excess Lottery Revenue Fund have similar requirements; currently payments are \$2,900,000 per month for the first ten months of each fiscal year, with \$1,000,000 of this amount beginning September 2004. In addition, Legislation provides that, if in any month, there is a shortage of funds in the State Excess Lottery Revenue Fund to make debt service payments, the necessary amount shall be transferred from the State Lottery Fund to cover such shortfall, after the State Lottery Fund debt service payments have been made. Repayments to the State Lottery Fund are required to be made in subsequent months as funds become available. During the month ended November 30, 2007 the Lottery made such distributions and accrued additional distributions of \$45,778,586. The Lottery is a non-appropriated state agency and therefore does not have a budget adopted by the Legislature. Since the enactment of the Racetrack Video Lottery Act, the Lottery is also statutorily required to distribute income from racetrack video lottery operations as described in Note 6. As of November 30, 2007 the Lottery accrued additional distributions relating to racetrack video lottery operations of \$410,848.

Note 7 describes the Limited Video Lottery Act and the statutory distributions required to be made from limited video lottery operations. Note 8 describes the Table Games Act and the statutory distributions required to be made from table games operations.

A summary of the cash distributions made to certain state agencies to conform to the legislation follows (in thousands):

<u>BUDGETARY DISTRIBUTIONS</u>	<u>November 30, 2007</u>	<u>Year-to-Date</u>
<u>State Lottery Fund:</u>		
Bureau of Senior Services	\$ 5,770	\$ 50,542
Department of Education	3,425	30,000
Library Commission	1,034	9,057
Higher Education-Policy Commission	1,898	16,630
Tourism	779	6,826
Natural Resources	337	2,953
Division of Culture & History	542	4,749
Department of Education & Arts	140	1,226
Building Commission	1,000	5,000
School Building Authority	1,800	9,000
Total State Lottery Fund	\$ 16,725	\$ 135,983

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
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NOTE 9- NONOPERATING DISTRIBUTIONS TO THE STATE OF WEST VIRGINIA
(continued)

State Excess Lottery Revenue Fund:

Economic Development Fund	\$ 1,900	\$ 9,500
Higher Education Improvement Fund	1,000	5,000
General Purpose Account	23,069	35,521
Higher Education Improvement Fund	-	27,000
State Park Improvement Fund	-	-
School Building Authority	-	-
Refundable Credit	-	307
Excess Lottery Surplus	-	-
West Va. Infrastructure Council	-	-
Total State Excess Lottery Revenue Fund	\$ 25,969	\$ 77,328
House Bill 2007	\$ -	\$ 2,000
Total Budgetary distributions:	\$ 42,694	\$ 215,311
Veterans Instant Ticket Fund	\$ 52	\$ 321

Other Racetrack Video Lottery distributions:

Tourism Promotion Fund 1.375%	\$ 1,052	\$ 5,041
Development Office Promotion Fund .375%	287	1,375
Research Challenge Fund .5%	382	1,833
Capitol Renovation & Improvement Fund .6875%	527	2,521
Parking Garage Fund .0625 %	48	229
Parking Garage Fund 1 %	-	500
Cultural Facilities & Cap. Resources Fund .5%	380	1,500
Capitol Dome & Cap. Improvements Fund .5%	385	1,666
Workers Compensation Debt Reduction Fund 7%	-	11,000
Total .	\$ 3,061	\$ 25,665
Table Games State Debt Reduction Fund	\$ 98	98

Total nonoperating distributions to the State of West Virginia (cash basis)	\$ 45,905	\$ 241,395
Accrued nonoperating distributions, beginning	(192,404)	(180,178)
Accrued nonoperating distributions, end	195,099	195,099
Total nonoperating distributions to the State of West Virginia	\$ 48,600	\$ 256,316

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
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NOTE 10 – RESTRICTED NET ASSETS

On June 14, 2006, House Bill 106 was enacted by the West Virginia State Legislature to set aside unexpended administrative expenses of the Lottery up to the limits for such expenses established by the enabling legislation of traditional, racetrack video lottery, and limited video lottery games in an amount not to exceed \$20,000,000 beginning in fiscal year 2006 and each year through fiscal year 2012. These assets are to be set aside for the design and construction of a building for the use of the Lottery and certain other State of West Virginia governmental entities. The lottery contributed \$20,000,000 to the fund for fiscal year 2006 plus \$9,539,860 and related interest of \$827,008 for fiscal year 2007.

NOTE 11 – COMMITMENTS

The Lottery has set aside funds as unrestricted net assets for the acquisition of future assets. During FY2007 the lottery set aside \$12.622M for this purpose.

NOTE 12 - DEFERRED JACKPOT OBLIGATIONS AND INVESTMENTS HELD IN TRUST

Prior to becoming a member of the Multi-State Lottery in 1988, the prize structure of certain games operated solely by the Lottery included jackpot prizes. The Lottery, at its discretion, could choose to award such prizes in the form of either a lump sum payment or in equal installments over a period of 10 or 20 years, through November 30, 2007, the Lottery has awarded twenty-one deferred jackpot prizes totaling approximately \$28,868,786. Deferred prize awards were recognized as prize liabilities equivalent to the present value of future prize payments discounted at interest rates for government securities in effect on the date prizes were won. The imputed interest portion of the deferred prize is calculated using the effective interest method at rates ranging from 7.11% to 9.13%.

A summary of the present value of the remaining obligations for deferred jackpot prize awards follows (in thousands):

	<u>November 30, 2007</u>	<u>June 30, 2007</u>
Present value of deferred prize award obligations:		
Discounted obligations outstanding	\$ 120	\$ 279
Imputed interest accrued	<u>3</u>	<u>19</u>
	123	298
Less current portion of discounted obligations and accrued interest	<u>(123)</u>	<u>(159)</u>
Long-term portion of deferred prize award obligations	<u>\$ -</u>	<u>\$ 139</u>

**WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-**

**NOTE 12 - DEFERRED JACKPOT OBLIGATIONS AND INVESTMENTS HELD IN TRUST
(continued)**

Future cash payments on deferred prize obligations for each of the remaining two years are as follows (in thousands):

<u>Year Ended</u>	<u>Original Discounted Obligations Outstanding</u>	<u>Imputed Interest</u>	<u>Total</u>
June 30, 2008	-	-	-
June 30, 2009*	120	10	130
	<u>\$ 120</u>	<u>\$ 10</u>	<u>\$ 130</u>

*Due 8/15/2008

The Lottery has purchased long-term investments consisting principally of zero coupon government securities to fund deferred jackpot prize award obligations. Such investments are maintained in a separate trust fund administered by the West Virginia Board Of Treasury Investments on behalf of the Lottery and the jackpot prize winners, with investment maturities approximating deferred prize obligation installment due dates. Investments are carried at fair value determined by quoted market prices for the specific obligation or for similar obligations. Changes in fair value are included as part of investment income. In accordance with Statement No. 3 of the Government Accounting Standards Board, these investments are classified as to level of risk in Category 1, which includes investments that are insured or registered, or for which the securities are held by the State or its agent in the State's name.

NOTE 13 - RETIREMENT BENEFITS

All full-time Lottery employees are eligible to participate in the State of West Virginia Public Employees' Retirement System (PERS), a cost-sharing multiple-employer defined benefit public employee retirement system. The PERS is one of several plans administered by the West Virginia Consolidated Public Retirement (CPRB) under the direction of its Board of Trustees, which consists of the Governor, State Auditor, State Treasurer, Secretary of the Department of Administration, and nine members appointed by the Governor. CPRB prepares separately issued financial statements covering all retirement systems it administers, which can be obtained from Consolidated Public Retirement Board, Building 5, Room 1000, State Capitol Complex, Charleston, West Virginia 25305-0720.

Employees who retire at or after age sixty with five or more years of contributory service or who retire at or after age fifty-five and have completed twenty-five years of credited service with age and credited service equal to eighty or greater are eligible for retirement benefits as established by State statute. Retirement benefits are payable monthly for life, in the form of a straight-line annuity equal to two percent of the employee's average annual salary from the highest 36 consecutive months within the last 10 years of employment, multiplied by the number of years of the employee's credited service at the time of retirement.

**WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
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NOTE 13 - RETIREMENT BENEFITS (continued)

Covered employees are required to contribute 4.5% of their salary to the PERS. The Lottery is required to contribute 10.5% of covered employees' salaries to the PERS. The required employee and employer contribution percentages have been established and changed from time to time by action of the State Legislature. The required contributions are not actuarially determined; however, actuarial valuations are performed to assist the Legislature in determining appropriate contributions. The Lottery and employee contributions, for the period ending November 30, 2007 are as follows (in thousands):

	<u>November 30, 2007</u>	<u>Year-to Date</u>
Lottery contributions	\$43	\$205
Employee contributions	19	90
Total contributions	<u>\$62</u>	<u>\$295</u>

NOTE 14 - RISK MANAGEMENT

The Lottery is exposed to various risks of loss related to torts; theft of, or damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Lottery participates in several risk management programs administered by the State of West Virginia. Each of these risk pools have issued separate audited financial reports on their operations. Those reports include the required supplementary information concerning the reconciliation of claims liabilities by type of contract and ten-year claim development information. Complete financial statements of the individual insurance enterprise funds can be obtained directly from their respective administrative offices.

WEST VIRGINIA WORKERS' COMPENSATION COMMISSION (WCC)

The State of West Virginia operated an exclusive state-managed workers' compensation insurance program (WCC) prior to December 31, 2005. A framework for the privatization of workers' compensation insurance in West Virginia was established with the passage of Senate Bill 1004 and the WCC trust fund was terminated effective December 31, 2005. A privatized business entity, BrickStreet Administrative Services (BAS), was established and became the administrator of the WCC Old Fund, beginning January 1, 2006, and thereafter for seven years, and will have all administrative and adjudicatory authority previously vested in the WCC trust fund in administering old law liabilities and otherwise processing and deciding old law claims. BAS will be paid a monthly administrative fee and rated premium to provide a prompt and equitable system for compensation for injury sustained in the course of and growing out of employment. The monthly administrative fee for the West Virginia Lottery has been set at a level consistent with prior year payments and the new rate or premium will be established on an experience rated basis. The West Virginia Lottery is required to participate in the new BrickStreet Administrative Services (BAS) experience rated pool, which is expected to be rate adjusted on a quarterly basis.

PUBLIC EMPLOYEES' INSURANCE AGENCY (PEIA)

The Lottery participates in the Public Employees' Insurance Agency which provides an employee benefit insurance program to employees. PEIA was established by the State of West Virginia for State

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 14 - RISK MANAGEMENT (continued)

agencies, institutions of higher educations, Boards of Education and component units of the State. In addition, local governmental entities and certain charitable and public service organizations may request to be covered by PEIA. PEIA provides a base employee benefit insurance program which includes hospital, surgical, major medical, prescription drug and basic life and accidental death. Underwriting and rate setting policies are established by PEIA. The cost of all coverage as determined by PEIA shall be paid by the participants. Premiums are established by PEIA and are paid monthly, and are dependent upon, among other things, coverage required, number of dependents, state vs. non state employees and active employees vs. retired employees and level of compensation. Coverage under these programs is limited to \$1 million lifetime for health and \$10,000 of life insurance coverage.

The PEIA risk pool retains all risks for the health and prescription features of its indemnity plan. PEIA has fully transferred the risks of coverage to the Managed Care Organization (MCO) Plan to the plan provider, and has transferred the risks of the life insurance coverage to a third party insurer. PEIA presently charges equivalent premiums for participants in either the indemnity plan or the MCO Plan. Altogether, PEIA insures approximately 205,000 individuals, including participants and dependents.

BOARD OF RISK AND INSURANCE MANAGEMENT (BRIM)

The Lottery participates in the West Virginia Board of Risk and Insurance Management (BRIM), a common risk pool currently operating as a common risk management and insurance program for all State agencies, component units, and other local governmental agencies who wish to participate. The Lottery pays an annual premium to BRIM for its general insurance coverage. Fund underwriting and rate setting policies are established by BRIM. The cost of all coverage as determined by BRIM shall be paid by the participants. The BRIM risk pool retains the risk of the first \$1 million per property event and purchases excess insurance on losses above that level. Excess coverage, through an outside insurer under this program is limited to \$200 million per event, subject to limits on certain property. BRIM has \$1 million per occurrence coverage maximum on all third-party liability claims.

NOTE 15 - NEW ACCOUNTING PRONOUNCEMENTS

The GASB has issued Statement No. 43, "Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans," and Statement No. 45, "Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions" (OPEB). The State nor the Lottery has previously reported in its financial statements costs associated with future participation of retirees in health benefit plans. The GASB statements are based on the premise that the "costs" of employee services should be reported during the periods when the services are rendered. Beginning with the fiscal year ending June 30, 2007, the State will implement financial reporting requirements for OPEB "substantive plans" under GASB Statement No. 43; beginning with fiscal year ending June 30, 2008, the State will implement accounting and financial reporting requirements as an employer under GASB Statement No. 45. The financial statements will report OPEB funded status and funding progress and any "premium subsidy" resulting from the pooling of retiree participants with active employees in the health benefit plans. For "employer" OPEB reporting the State will report "expense" on an accrual basis in the amount of the

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 15 - NEW ACCOUNTING PRONOUNCEMENTS (continued)

"annual required contribution" and a "liability" for the amount of the "annual required contribution" that was not actually paid.

Funds have not been set aside to pay future costs of retirees, but the Legislature in response to the GASB statements, has made statutory changes to create the West Virginia Retiree Health Benefit Trust Fund (RHBT), an irrevocable trust fund, in which employer contributions for future retiree health costs may be accumulated and invested, and which is expected to facilitate the separate financial reporting of OPEB. The legislation requires the RHBT to determine through an actuarial study, as prescribed by GASB No. 43, the ARC (Annual Required Contribution) which shall be sufficient to maintain the RHBT in an actuarially sound manner. The ARC shall be allocated to respective employers including the Lottery who are required by law to remit at least the minimum annual premium component of the ARC. Revenues collected by RHBT shall be used to fund current OPEB healthcare claims and administrative expenses with residue funds held in trust for future OPEB costs. Because the necessary actuarial study has not yet been completed, the annual required contribution rates are not yet available. The Lottery expects to remit the annual required contribution to the State. The impact of this statement on these financial statements has not yet been determined by management.

The Governmental Accounting Standards Board (GASB) issued statement No. 47, Accounting for Termination Benefits, in June 2005. This Statement establishes accounting standards for termination benefits and requires employers to disclose a description of the termination benefit arrangement, the cost of the termination benefits (required in the period in which the employer becomes obligated if that information is not otherwise identifiable from information displayed on the face of the financial statements, and significant methods and assumptions used to determine termination benefit liabilities. The requirements of this Statement are effective in two parts. For termination benefits provided through an existing defined benefit OPEB plan, the provisions of this Statement should be implemented simultaneously with the requirements of Statement 45. For all other termination benefits, this Statement is effective for financial statements for periods beginning after June 15, 2005. No other termination benefits are offered or provided that required implementation in the years ended June 30, 2007 and 2006. The impact of this statement on the financial statements is not expected to have a material effect.

The Governmental Accounting Standards Board (GASB) issued Statement No. 50, Pension Disclosures, an amendment of GASB Statements No. 25 and No. 27, in 2007. This Statement more closely aligns the financial reporting requirements for pensions with those for other postemployment benefits (OPEB) and, in doing so, enhances information disclosed in notes to financial statements or presented as required supplementary information (RSI) by pension plans and by employers that provide pension benefits. The reporting changes required by this Statement amend applicable note disclosure and RSI requirements of Statements No. 25, Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans, and No. 27, Accounting for Pensions by State and Local Governmental Employers, to conform with requirements of Statements No. 43, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, and No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions. This Statement is effective for periods beginning after June 15, 2007, and management has not yet determined what impact, if any, it will have on the financial statements.

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor

*Budget Division
Building 1, Room 332-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590*



304-347-4870

Memorandum

To: Honorable Senate President Tomblin
Honorable House of Delegates Speaker Thompson
Honorable Members of the Joint Committee on Government and
Finance

From: Ellen Clark, C.P.A.
Director Budget Division
Legislative Auditor's Office

Date: January 3, 2008

Re: Status of General Revenue Fund December 31, 2007

We have reviewed the cash revenue flows of the West Virginia general revenue fund for the months of July - December of fiscal year 2007-2008. The status of the fund collections are as follows:

The net collections were **102.85%** of the estimate for the fiscal year. **The amount ABOVE estimate was \$ 51.6 million for the year.**

Corporate income/business franchise tax was \$11 million above the estimate.

Severance tax was \$ 13.6 million above the estimate as of December 31, 2007.

Personal Income Tax collections were \$ 46.6 million above the estimate as if December 31, 2007.

Joint Committee on Government and Finance

State Road Fund

The state road fund was collected at 95.57% of the estimate for the months of July - December 2007.

Rainy Day and Personal Income Tax Reserve

Revenue Shortfall Reserve Fund A (Rainy Day Fund) had a cash balance of \$ \$290,531,222.84 as of December 31, 2007.

Balance July 1, 2007	235,075,887.42
Cash flow loan to General Revenue on July 3, 2007 To be repaid 90 days. This is a normal occurrence in July due to cash flow demands; was repaid in September.	- 56,000,000.00 +56,000.000.00
Revenues July 1, 2006-June 30, 2007 (Surplus from FY 2007 to be transferred in August 2007.)	53,363,287.82
Earnings	2,092,047.60
Balance December 31, 2007	290,531,222.84

Revenue Shortfall Reserve Fund B (Tobacco Settlement Monies) had a cash balance of \$ 285,230,002.14 as of December 31, 2007.

Balance July 1, 2007	279,869,087.79
Earnings	5,360,914.35
Balance December 31, 2007	285,230,002.14

The Special Income Tax Reserve Fund had a cash balance of \$45,019,318.96 as of December 31, 2007.

Balance July 1, 2007	45,019,318.96
Revenues July 2007-June 2008	-0-
Balance December 31, 2007	45,019,318.96

GENERAL REVENUE FUND FY 2007-2008

Monthly Revenue Estimates July 2007
as of December 28, 2007, WVFIMS

SOURCE OF REVENUE	MONTH ESTIMATES	NET MONTH COLLECTIONS	FINAL	YTD ESTIMATES	NET YTD COLLECTIONS	YEARLY
			MONTHLY OVER/ UNDER ESTIMATES VS ACTUAL COLLECTIONS			OVER/UNDER ESTIMATES VS ACTUAL YTD COLLECTIONS
Personal Income Tax	87,100,000	105,690,944	18,590,944	609,000,000	655,668,885	46,668,885
Consumer Sales Tax	85,200,000	78,437,822	-6,762,179	526,500,000	501,144,238	-25,355,762
Corp Income /Business Franchise	77,000,000	71,968,614	-5,031,386	175,700,000	187,291,307	11,591,307
Severance Tax	26,700,000	30,629,203	3,929,203	144,900,000	158,527,039	13,627,039
Business and Occupation Use Tax	11,300,000	3,968,987	-7,331,013	70,000,000	65,407,310	-4,592,690
	9,100,000	6,649,120	-2,450,880	66,400,000	61,105,307	-5,294,693
Cigarette Tax	7,500,000	7,926,682	426,682	54,400,000	53,476,710	-923,290
HB 102 - Lottery Transfers	24,000,000	29,095,497	5,095,497	53,600,000	64,616,719	11,016,719
Insurance Tax	0	57,311	57,311	53,500,000	49,420,340	-4,079,660
Interest Income	4,000,000	6,646,189	2,646,189	23,000,000	29,786,222	6,786,222
Property Transfer Tax	970,000	1,002,487	32,487	6,850,000	6,691,759	-158,241
Liquor Profit Transfers	30,000	14,500	-15,500	5,570,000	5,852,298	282,298
Departmental Collections	1,300,000	833,495	-466,505	5,400,000	6,203,855	803,855
Beer Tax and Licenses	550,000	601,083	51,083	4,030,000	4,121,816	91,816
Charter Tax	190,000	141,432	-48,568	3,470,000	3,301,176	-168,824
Property Tax	200,000	126,988	-73,012	2,970,000	3,140,452	170,452
Smokeless Tobacco Tax	420,000	323,733	-96,267	2,580,000	2,728,098	148,098
Miscellaneous Receipts	190,000	79,148	-110,852	800,000	545,626	-254,374
Business Franchise Fees	30,000	18,089	-11,911	560,000	1,033,743	473,743
Racing Fees	300,000	211,500	-88,500	600,000	351,500	-248,500
Miscellaneous Transfers	0	0	0	400,000	991,093	591,093
Senior Citizen Tax Credit Reimb.	0	0	0	230,000	0	-230,000
Telecommunications Tax	0	15,722	0	0	160,371	160,371
Estate and Inheritance Tax	0	2,390	2,390	0	32,259	32,259
Refundable Credit Reim LTY	0	0	0	0	307,158	307,158
Video Lottery Transfers	0	3,215	3,215	0	195,277	195,277
Special Revenue Transfer	0	0	0	0	0	0
Cash Flow Transfer	0	0	0	0	0	0
TOTALS	336,080,000	344,444,150	8,364,150	1,810,460,000	1,862,100,558	51,640,558
Minus Cash Flow Transfer	0	0	0	0	0	0
Percent of Estimates		102.49%			102.85%	
TOTALS	336,080,000	344,444,150	8,364,150	1,810,460,000	1,862,100,558	51,640,558
Collections this day		17,824,080				

STATE ROAD FUND
STATE ROAD FUND FY 2007-2008
Monthly Estimates July 2007
as of December 28, 2007 WVFIMS

FINAL

SOURCE OF REVENUE	MONTH ESTIMATES	NET MONTH COLLECTIONS	MONTHLY OVER/ UNDER ESTIMATES VS ACTUAL COLLECTIONS	YTD ESTIMATES	NET YTD COLLECTIONS	YEARLY OVER/UNDER ESTIMATES VS ACTUAL YTD COLLECTIONS
Gasoline & Motor Carrier Rd Tax	39,500,000	12,838,201	-26,661,799	206,800,000	190,932,777	-15,867,223
Privilege Tax	11,139,000	9,895,587	-1,243,413	85,210,000	86,122,929	912,929
Licenses & Registration	6,150,000	5,838,908	-311,092	38,584,000	38,791,129	207,129
Highway Litter Control	116,000	91,209	-24,791	730,000	802,474	72,474
TOTALS	56,905,000	28,663,905	-28,241,095	331,324,000	316,649,309	-14,674,691
Percent of Estimates		50.37%			95.57%	
Collections this day		13,843,982				

REVENUE SHORTFALL RESERVE FUND A as of December 3, 2007:\$295,150,118.06

REVENUE SHORTFALL RESERVE FUND B as of December 3, 2007 : \$292,715,238.49

SPECIAL INCOME TAX REFUND RESERVE FUND as of December 3, 2007: \$45,019,318.96

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor

Budget Division
Building 1, Room 332-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590



304-347-4870

To: Honorable Senate President Tomblin
Honorable House of Delegates Speaker Thompson
Honorable Members of the Joint Committee on Government
and Finance

From: Ellen Clark, C.P.A.
Director Budget Division
Legislative Auditor's Office

Date: January 5, 2008

Re: West Virginia Unemployment Compensation Trust Fund

We have reviewed the October 2007 monthly report of the Unemployment Compensation Trust Fund we received from WorkForce West Virginia. October is the fourth month of fiscal year 2007-2008.

For the fiscal year 2007-2008, the trust fund cash flow was as follows:

Trust Fund Beginning Cash Balance 7-1-2007	\$257,112,738.68
Receipts July 1, 2007 thru June 30, 2008	\$42,364,944.91
Disbursements July 1, 2007 thru June 30, 2008	\$45,393,362.46
Balance October 31, 2007	\$254,084,321.13

ITEMS OF NOTE:

Regular benefits paid for July - October 2007 were \$1.8 million more than in July - October 2006. Total disbursements were

Joint Committee on Government and Finance

\$ 1.6 million more than in July - October 2006.

Receipts were \$ 2.9 million less than in July - October 2006. Overall ending trust fund balance was \$ 7.6 million more as of October 31, 2007 than on October 31, 2006.

West Virginia's unemployment rate for the month of October 2007 was 4.3 percent. National unadjusted employment rate was 4.4 %.

Seasonally adjusted unemployment rates were 5.0 percent for West Virginia and 4.7 percent nationally.

Since October 2006 employment has risen 2,600 with gains in the following areas: 900 in trade, transportation and utilities, 600 in leisure and hospitality, 1,400 in professional and business services, 600 in other services, 900 in natural resources and mining, 600 in construction, 400 in educational and health services. Declines included 1,500 in manufacturing, 900 in government, 200 in information and 200 in financial activities.

**MONTHLY STATUS REPORT FOR THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE
FOR THREE MONTHS STARTING AUGUST 2006 AND AUGUST 2007**

	<u>AUGUST 2006</u>	<u>SEPTEMBER 06</u>	<u>OCTOBER 06</u>	<u>AUGUST 07</u>	<u>SEPTEMBER 07</u>	<u>OCTOBER 07</u>	<u>THREE MONTH TOTAL VARIANCE *</u>
Balance Forward	<u>244,792,010.39</u>	<u>284,684,472.82</u>	<u>249,634,830.81</u>	<u>258,952,769.62</u>	<u>262,831,639.34</u>	<u>257,723,100.41</u>	<u>27,865,885.28</u>
Add Receipts:							
1. Bond Assessment	\$718.40	\$0.00	\$188.71	0.00	0.00	0.00	(905.11)
2. Regular Contributions:	\$20,847,745.20	\$700,277.52	\$8,306,432.32	18,126,509.57	653,688.63	7,853,681.98	(3,120,694.66)
3. Extended Benefit Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4. Emergency Unemployment Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5. TEUC Unemployment Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
6. UCFE (Federal Agencies)	\$100,000.00	\$0.00	\$50,000.00	\$0.00	\$0.00	\$0.00	(150,000.00)
7. Reduced Tax Credits	\$29,787.01	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	(29,787.01)
8. Reed Act Funds	\$0.00	\$314,763.48	\$0.00	\$0.00	\$01,600.21	\$0.00	(12,683.27)
9. Treasury Interest Credits	\$0.00	\$2,605,553.68	\$0.00	\$0.00	2,857,205.48	\$0.00	281,651.88
10. UCX (Military Agencies)	\$900,000.00	\$0.00	\$250,000.00	\$0.00	\$0.00	\$0.00	(750,000.00)
Total Monthly Receipts	<u>\$21,278,250.61</u>	<u>\$3,620,614.68</u>	<u>8,606,619.03</u>	<u>18,126,609.57</u>	<u>9,712,674.50</u>	<u>7,853,681.98</u>	<u>(3,612,618.19)</u>
Less Disbursements:							
Debt Bond Repayment	(Retired)	(Retired)	(Retired)	(Retired)	(Retired)	(Retired)	NA
Regular Benefits:	\$10,879,428.78	\$8,334,741.48	\$11,858,537.75	11,963,703.41	6,643,195.18	11,168,818.58	605,009.20
Extended Benefits	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Emergency Benefits	(\$1,690.00)	(\$1,148.00)	(\$1,057.00)	(\$60.00)	(720.00)	(700.00)	1,812.00
UCFE (Federal Workers) Benefits	\$98,084.68	\$57,546.62	\$79,601.54	64,659.04	72,263.26	69,152.58	832.08
UCX (Military Workers) Benefits	\$269,964.65	\$209,013.61	\$274,846.30	218,926.40	208,385.00	255,182.08	(62,122.08)
Reed Act Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Adjustments	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Monthly Disbursements	<u>11,206,788.07</u>	<u>8,600,166.69</u>	<u>12,009,728.69</u>	<u>12,247,729.85</u>	<u>8,821,113.43</u>	<u>11,492,461.24</u>	<u>748,631.17</u>
Trust Fund Balance	<u>264,684,472.92</u>	<u>249,884,830.81</u>	<u>248,481,921.25</u>	<u>262,631,639.34</u>	<u>267,723,100.41</u>	<u>264,084,321.13</u>	<u>23,407,738.69</u>

* Three month total variance column is the difference between the sum of the previous year's three months data for each category and the current year's three months data. The purpose of the report is to show significant changes in receipts, disbursements, or balances.

Joe Manchin, III
Governor

Rita Hedrick-Helmick
Chairperson

W. Jack Stevens
Member
James D. Gray
Member

Workers' Compensation Board of Review

Offices located at 104 Dee Drive, Charleston
All communications should be addressed to the Board of Review
at the address shown at the bottom of this page.
an equal opportunity/affirmative action employer

MEMORANDUM

To: Jane L. Cline, Commissioner
Charles Bayless, Chairman
Dan Marshall
Bill Dean
Walter Pellish
Honorable Carrie Webster, House Judiciary Chair
Honorable Brooks McCabe
Honorable Nancy Peoples Guthrie

From: Rita F. Hedrick-Helmick, Chairperson 

Date: December 6, 2007

Re: Workers' Compensation Board of Review Monthly Report

Attached, please find the Board of Review's November 2007 monthly report.

if you have any additional questions, please do not hesitate to contact me.

**WORKER COMPENSATION BOARD OF REVIEW
FOR NOVEMBER 2007**

Appealed By	BOR Disposition	Disposition		Year to Date	Disp %	Total %		
		Count	Disp %					
CLAIMANT	ABEYANCE	2	0.6%	0.4%	8	0.1%	0.1%	
	AFFIRM AND MODIFY	5	1.6%	1.0%	30	0.9%	0.6%	
	AFFIRM AND REMAND	1	0.3%	0.2%	14	0.4%	0.3%	
	AFFIRMED	277	86.6%	57.3%	2900	83.4%	56.0%	
	DISMISSED				30	0.9%	0.6%	
	MODIFY	1	0.3%	0.2%	2	0.1%	0.0%	
	REMAND	20	6.3%	4.1%	236	6.8%	4.6%	
	REVERSE	10	3.1%	2.1%	172	4.9%	3.3%	
	REVERSE AND REMAND	4	1.3%	0.8%	50	1.4%	1.0%	
	REVERSE IN PART				21	0.6%	0.4%	
	REVERSE IN PART AND REMAND				5	0.1%	0.1%	
	VACATE				4	0.1%	0.1%	
	WITHDRAWN				9	0.3%	0.2%	
	Total Appeals		320			3478		
	CLAIMANT/EMPLOYER	ABEYANCE				2	3.6%	0.0%
AFFIRM AND MODIFY					2	3.6%	0.0%	
AFFIRM AND REMAND					1	1.8%	0.0%	
AFFIRMED		9	100.0%	1.9%	38	67.9%	0.7%	
REMAND					3	5.4%	0.1%	
REVERSE					5	8.9%	0.1%	
REVERSE AND REMAND					1	1.8%	0.0%	
REVERSE IN PART					3	5.4%	0.1%	
VACATE					1	1.8%	0.0%	
Total Appeals			9			56		
EMPLOYER	ABEYANCE	1	2.0%	0.2%	3	0.5%	0.1%	
	AFFIRM AND MODIFY				7	1.1%	0.1%	
	AFFIRM AND REMAND				2	0.3%	0.0%	
	AFFIRMED	34	69.4%	7.0%	445	71.1%	8.6%	
	DISMISSED				5	0.8%	0.1%	
	MODIFY				2	0.3%	0.0%	
	MODIFY AND REMAND				1	0.2%	0.0%	
	REMAND	5	10.2%	1.0%	38	5.8%	0.7%	
	REVERSE	7	14.3%	1.4%	100	16.0%	1.0%	
	REVERSE AND REMAND	1	2.0%	0.2%	3	0.5%	0.1%	
	REVERSE IN PART	1	2.0%	0.2%	15	2.4%	0.3%	
	REVERSE IN PART AND REMAND				2	0.3%	0.0%	
	VACATE				1	0.2%	0.0%	
	WITHDRAWN				4	0.6%	0.1%	
	Total Appeals		49			526		
DIVISION/OIC	ABEYANCE	3	2.9%	0.6%	5	0.5%	0.1%	
	AFFIRM AND MODIFY	1	1.0%	0.2%	10	1.0%	0.2%	
	AFFIRM AND REMAND				1	0.1%	0.0%	
	AFFIRMED	74	70.5%	15.3%	781	76.5%	15.1%	
	DISMISSED				5	0.5%	0.1%	
	MODIFY				1	0.1%	0.0%	
	MODIFY AND REMAND				1	0.1%	0.0%	
	REMAND	1	1.0%	0.2%	30	2.9%	0.6%	
	REVERSE	23	21.9%	4.8%	152	14.9%	2.9%	
	REVERSE AND REMAND	1	1.0%	0.2%	16	1.6%	0.3%	
	REVERSE IN PART	2	1.9%	0.4%	11	1.1%	0.2%	
	REVERSE IN PART AND REMAND				3	0.3%	0.1%	
	WITHDRAWN				5	0.5%	0.1%	
	Total Appeals		105			1021		
	Grand Totals		483			5151		

Workers Compensation Board of Review

Yearly Disposition of Appeals - 2007

	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
Appeals Rec'd	496	429	418	329	321	243	250	277	288	288	238	238	3589
# Docket	502	525	529	530	526	434	374	457	387	311	282	200	4977
Abeance					1	2	2	3	4	1	5		18
Affirm And Modify	3	1	7	2	4	2	4	8	4	2	6		43
Affirm And Remand	3	2	2		2	2		1	2	1	1		16
Affirmed	412	359	398	572	507	321	222	173	336	370	378		4048
Continued	5	5	1	6	8	5	19	4	16	9	10		88
Dismiss	5		5	5	1								16
Modify				2	1					1		1	5
Modify And Remand			1							1			2
Remand	34	18	33	28	51	28	18	9	9	40	26		295
Reverse	53	28	44	28	54	39	33	10	45	23	35		382
Reverse And Remand	10	1	6	1	13	6	7	2	4	8	6		64
Reverse In Part	6	3	5	6	5	1	4	3	4	2	3		42
Reverse In Part And Remand	5		1		2	1	1						10
Vacate				1				1		3			5
Withdrawal	2	1	6		3								12
Reinstated	52	26	42	44	34	21	16	13	19	16	10		293
Dismissed Undoc	92	43	99	114	132	58		15	2	7	4		566
Withdrawn Undoc	58	34	60	62	88	23	35	40	59	42	29		501
Total Final Dispositions	683	490	710	821	834	482	324	262	502	467	488		6017

Old Fund Claims Payments by Type Thru December 2007

	<u>July 2007</u>	<u>August 2007</u>	<u>September 2007</u>	<u>October 2007</u>	<u>November 2007</u>	<u>December 2007</u>
Claims benefits paid:						
Medical	(6,609,757.57)	(4,445,238.84)	(4,147,745.66)	(5,017,581.78)	(4,170,450.96)	(4,665,237.73)
Permanent Total Disability	(12,652,231.41)	(12,679,103.50)	(12,712,201.78)	(13,139,992.56)	(13,026,519.48)	(12,736,427.51)
Permanent Partial Disability	(1,909,735.74)	(1,729,661.14)	(1,555,572.43)	(1,477,487.29)	(1,404,809.13)	(1,222,243.36)
Temporary Total Disability	(319,940.50)	(421,416.36)	(263,067.46)	(375,261.21)	(253,835.87)	(211,041.42)
Temporary Partial Disability	(15,030.62)	(15,358.58)	(13,503.37)	(7,815.34)	(9,746.12)	(8,066.93)
Settlement Agreements	(572,757.47)	(334,166.21)	(266,575.47)	(902,792.15)	(749,325.47)	(391,115.72)
Fatals	(2,864,551.07)	(3,038,140.52)	(2,826,247.74)	(2,770,796.29)	(2,844,802.86)	(2,743,652.22)
104 weeks	(473,549.52)	(524,296.44)	(422,597.89)	(471,480.04)	(487,696.82)	(413,881.10)
Non-Awarded Partials	(10,497.46)	(22,721.16)	(9,136.98)	(8,503.09)	(3,621.62)	(6,534.77)
Total	<u>(25,428,051.36)</u>	<u>(23,210,102.75)</u>	<u>(22,216,648.78)</u>	<u>(24,171,709.75)</u>	<u>(22,950,808.33)</u>	<u>(22,398,200.76)</u>
Claims credits and overpayments	115,370.04	422,010.82	251,963.12	377,112.76	423,235.05	876,624.96
Total claims paid	<u>(25,312,681.32)</u>	<u>(22,788,091.93)</u>	<u>(21,964,685.66)</u>	<u>(23,794,596.99)</u>	<u>(22,527,573.28)</u>	<u>(21,521,575.80)</u>

Prepared by D. Gillespie 1/02/07

Exemption Statistics as of 1/2/2008

	New Exemptions issued	Renewals Granted in 2007	
Jan. 06	15		8
Feb. 06	87		40
Mar. 06	98		39
Apr. 06	110		41
May 06	218		147
June 06	391		239
July 06	202		100
Aug 06	243		126
Sep 06	329		171
Oct 06	265		107
Nov 06	133		55
Dec 06	118		35
	<hr/>		
	2,209		1,108
Jan 07	146		
Feb 07	123		
Mar 07	143		
Apr 07	141		
May 07	151		
June 07	128		
Jul 07	133		
Aug 07	128		
Sep 07	125		
Oct 07	161		
Nov 07	97		
Dec 07	179		
	<hr/>		
	1655		

Grand total of Exemptions Issued 2006 = 2,209
 Total No. Denials 2006 =
 262
 Total No. of Applications Received 2006 = 2,471

Grand total of Exemptions Issued YTD 2007 = 2,763
 Total No. Denials 2007 =
 299
 Total No. of Applications Received 2007 = 3,062

Revenue Recovery Activity	November 2007	
COLLECTION ACTIVITY		
Receipts - Old Fund (Employer out of business)	\$	78,784.48
Receipts - U (Old Fund Uninsured)	\$	50.00
Receipts - PC & NU (Private Carrier Cancellation & Rogue Employers)	\$	92,537.18
Receipts - Repayment Agreements	\$	114,524.48
Receipts - Collection Agency	\$	4,865.60
# of active accounts uninsured (cumulative)		1,390
\$ of active accounts uninsured (cumulative)	\$	4,344,393.85
Telephone contacts		1,436
Walk-ins		13
LIENS		
Liens sent to county clerks for recordation		129
Liens sent to county clerks for release		72
Intent to lien letters sent to employer/owner/officer/member		167
INJUNCTIONS		
Employers selected for injunction		47
Affidavits for injunction submitted to legal		35
Hearings attended		4
# of injunction compliants filed		17
REPAYMENT AGREEMENTS		
# of repayment agreements		3
Agreements set up		4
Total # of agreements on system (cumulative)		129
Intent to void letters mailed		5
Agreements voided		8
MISCELLANEOUS		
Rule 11 Letters Mailed		348
Rule 11 hearings		1
Uninsured Policies Resolved		390
All Cash Receipts from WC accounts	\$	290,761.74

**West Virginia Offices of the
Insurance Commissioner
Update**

**Workers' Compensation
Transition Review
Jan. 2, 2008**



Pre-Transition

West Virginia Workers' Compensation Commission

- Before January 1, 2006, the West Virginia Workers' Compensation Commission provided all coverage for workers' compensation claims and regulated the workers' compensation system.
- The former WCC regulated self insured employers, collected premiums from subscribing employers and enforced employer compliance with Chapter 23.



Pre-Transition

The Offices of the Insurance Commissioner

- Before the transition, the OIC's primary duties were to license and regulate insurance companies and other entities through financial and market conduct regulation, rate and form approval, and consumer complaint handling.
- The OIC duties also included licensing and regulation of agents and adjusters.

Senate Bill 1004 Transition to Private Workers' Compensation Insurance

- The system was privatized on January 1, 2006, and the responsibilities of the West Virginia Workers' Compensation system were divided.



Division of Responsibilities

WV Workers' Compensation Commission

WV Offices of the Insurance Commissioner

The regulatory functions of the former Workers' Compensation Commission were transferred, along with the employees who performed these regulatory functions, to the WV Offices of the Insurance Commissioner.

BrickStreet Mutual Insurance Company

(A licensed private
insurance company)

The State's Workers' compensation coverage for over 34,000 employers was transferred to BrickStreet on January 1, 2006. By statute, BrickStreet is the only insurance carrier authorized to sell workers' compensation coverage in WV until July 1, 2008.

BrickStreet is a Regulated Entity

- Consistent with OIC's traditional duties, the OIC has licensed and now regulates BrickStreet Mutual Insurance Company
- BrickStreet is not a state agency. By statute, BrickStreet is a private mutual insurance company regulated by the OIC.

Division of Liability for Claims

- The legislation terminated future claim liability for the State by directing that all claims with dates of injury or dates of last exposure on or after July 1, 2005 are BrickStreet liabilities.
- The State retained liability for all claims with dates of injury or dates of last exposure before July 1, 2005.
- The liability for pre-July 1, 2005 claims was placed into a State fund known as the “Old Fund.”

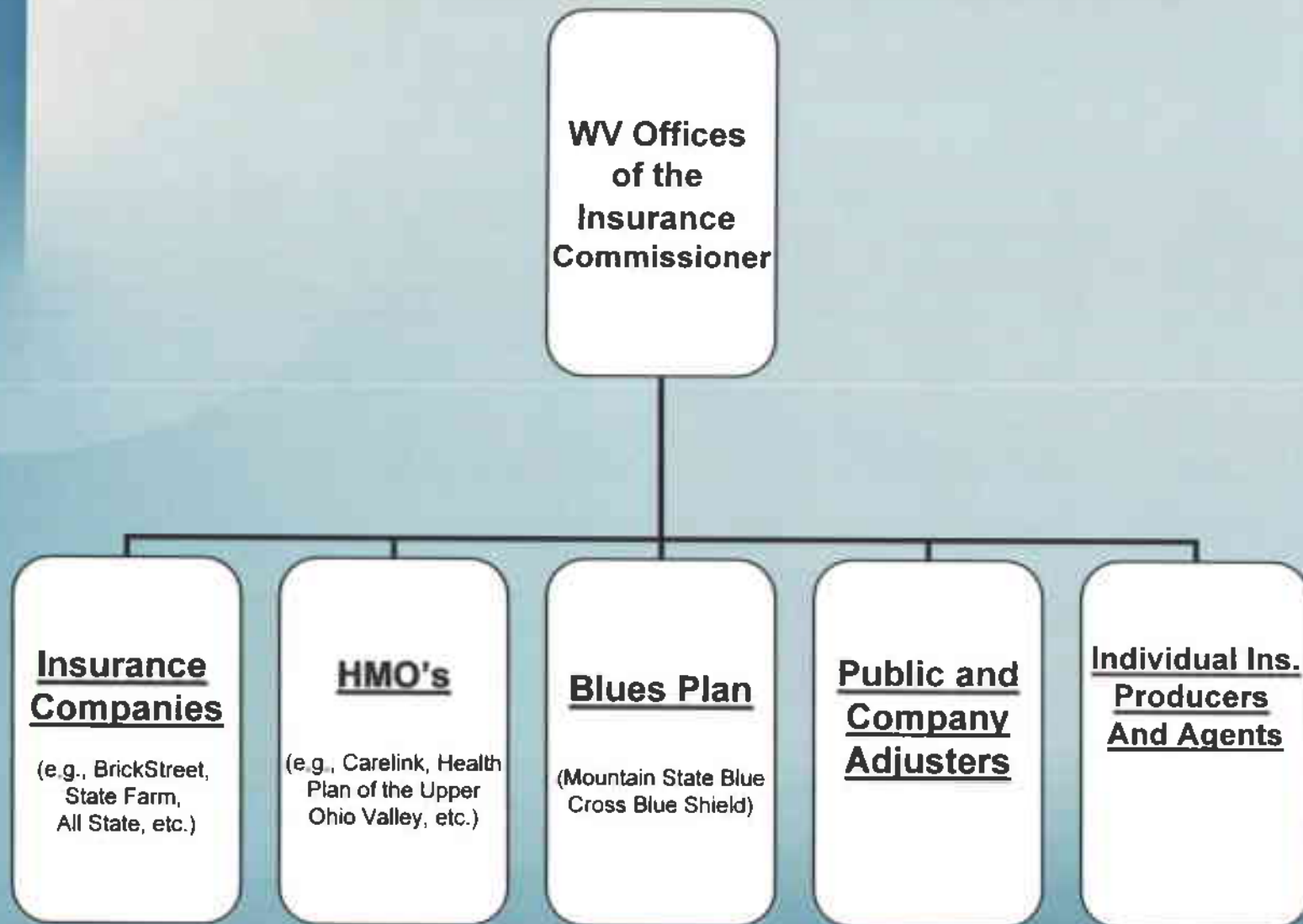
BrickStreet's Role as TPA for Old Fund

- By statute, BrickStreet was required to be the initial Third Party Administrator (“TPA”) for the Old Fund.
- As TPA, BrickStreet adjusted Old Fund claims, but has no liability for the cost of those claims. It has acted as a claims administrator only for Old Fund claims.

BrickStreet's Role as TPA for Old Fund

- In November, 2006, Cambridge as a subcontractor of BrickStreet began to adjust Old Fund Claims.
- On January 1, 2008 new TPAs began adjusting Old Fund Claims and BrickStreet has no further role in the handling of claims with pre-July 1, 2005 DOI's or DLE's.
- The three TPAs are Sedgwick, American Mining and Wells Fargo.

The OIC: Who Does it License and Regulate?



Regulatory Duties of the OIC

Primary Regulatory Divisions of the OIC
before Workers' Compensation Transition:

- Financial Conditions Division
- Agent Licensing Division
- Rates and Forms Division
- Consumer Services Division
- Legal Division/Market Conduct
- Office of Inspector General/Fraud

Regulatory Duties Added as a Result of Workers' Compensation Transition

- Collection of money from employers:
 - for premiums, penalties and interests due Old Fund; collection of uninsured fines; and collection of other charges relating to claims filed in Uninsured Employer Fund.
- Employer enforcement/coverage
- Self-Insurance approval and regulation
- Financial Accounting – Article 2C funds
- Oversight of claims management and litigation with respect to the Old Fund.

Regulatory Duties Added as a Result of Workers' Compensation Transition

- Consideration of applications for approval of workers' compensation managed care plans.
- Setting medical fees schedules for WC medical treatment, other than managed care plans
- Administrative Review of claims decision from the Office of Judges and Board of Review
- Management of old records and documents created by the former Workers' Compensation Commission.

QUESTIONS?

1-888-TRY-WVIC

www.wvinsurance.gov

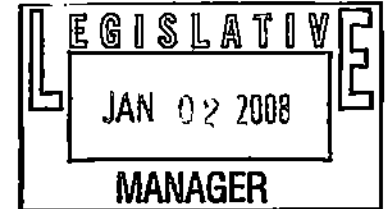
Offices of the Insurance Commissioner

JOE MANCHIN III
Governor

JANE L. CLINE
Insurance Commissioner

January 2, 2008

Aaron Allred, Legislative Manager
Legislative Services
Room E-132
1900 Kanawha Boulevard, East
Charleston, WV 25305



Dear Mr. Allred:

Several questions have been posed regarding the transition to a commercially competitive workers' compensation system and BrickStreet's governance. The West Virginia Offices of the Insurance Commissioner's response is as follows:

(1) If BrickStreet management desired to convert from a mutual company to a stock company, would that be a decision of the Board of Directors or would the insureds/owners have to vote to demutualize?

Under West Virginia Code Section 33-5-24, BrickStreet can not convert from a mutual insurance company to a stock company unless it has (among other things) the approval of not less than three fourths of the current members voting in person, by proxy, or by mail. However, without a clear statutory restriction on conversion to a stock company, it is possible that the issue could be placed on the agenda for the annual meeting and a vote could be taken.

With that said, there is an interpretation of current law that BrickStreet is prohibited from demutualizing. West Virginia Code Section 23-2C-3 very clearly requires the formation of a private, nonstock corporation. West Virginia Code Section 23-2C-3a was added to Article 2C during the 5th special session of 2005, and prohibits the dissolution of the company and further mandates that all the provisions of Article 2C, Subsection 3 remain in force and in effect. At the time of this amendment, therefore, the Legislature without a doubt intended that BrickStreet continue as a mutual company. This amendment arguably mandates that the company shall always remain a private, nonstock corporation.

In addition, under West Virginia Code Section 23-2C-3, the company is prohibited from selling, assigning, or transferring substantial assets or ownership of the company. It can be argued that these provisions limit BrickStreet's existence to a mutual insurance company. Mutual companies are not truly "owned," but have members. Members have the right to profits and have voting rights. Importantly, West Virginia's mutual statute provides a three year look back for stock dividend rights in the event of a conversion to a stock company. Conversion to a stock company would therefore transfer ownership beyond just the current members of the mutual. This would be, in effect, a transfer of ownership of the company that is prohibited by West Virginia Code Section 23-2C-3.



BrickStreet is also required to comply with the applicable provisions of Chapter thirty-three of the West Virginia Code. Under West Virginia Code Section 33-5-2, the general laws of the State that apply to corporations also apply to domestic stock and mutual insurers, except to the extent that they are inconsistent with the provisions of Chapter thirty-three. Chapter thirty-three will therefore govern over the general corporation laws in regard to the conversion of a mutual company to a stock company. The conversion of a mutual insurance company can only be pursuant to West Virginia Code Section 33-5-24. This section provides substantial protections to the members of a mutual insurer.

This section requires the Insurance Commissioner's approval before a mutual company can convert to a stock company. The statute provides the plan may not be approved unless:

- (1) It is equitable to the insurer's members;
- (2) *It must have approval of not less than three fourths of the current members voting thereon in person, by proxy, or by mail;*
- (3) The equity of each policyholder must be determinable under a fair formula approved by the commissioner;
- (4) *The policyholders entitled to participate in the purchase of stock or distribution of assets shall include all current policyholders and all existing persons who have been a policyholder within three years prior to the date such plan was submitted to the commissioner;*
- (5) Each policyholder is entitled to a preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer and to apply upon the purchase thereof the amount of his or her equity.
- (6) Shares offered to policyholders may not be at a price greater than offered to others nor at more than double the par value of such shares.
- (7) A policyholder may elect to receive cash in the amount of not less than fifty percent of the amount of his equity not so used for the purchase of stock.
- (8) The converted insurer's paid-in capital stock must be at least the minimum paid-in capital required of a domestic stock insurer transacting like kinds of insurance, together with surplus funds in amount not less than one half of such required capital.
(emphasis added).

Although the Insurance Commissioner must approve a plan to convert any domestic mutual company to a stock company, if the plan satisfies all of the statutory criteria set forth above then it would be approved. In the case of BrickStreet, a plan in compliance with this section would be approved unless it is determined that the demutualization amounts to a transfer of ownership of the company under Chapter twenty-three. Again, the members will have significant say in the decision to whether to convert or not. There could potentially be a disagreement between the outcome of the members' vote and the Insurance Commissioner's legal analysis of the applicable law.

(2) Where would the proceeds of a stock distribution go?

The proceeds from a sale of stock would go to either the individual stock holders or as paid in capital to the company. If the stock is purchased from stock holders, the individuals would receive the proceeds. If there is an issuance of new stock by the company, the proceeds would go to common stock and any excess over par to paid in capital accounts.

(3) What is revealed by a comparison between restrictions on BrickStreet in its surplus note and similar restrictions on the Physicians' Mutual?

The surplus notes issued to BrickStreet and to the Physicians' Mutual are similar in that they each use the basic surplus note form. However, there are differences.

The Physicians' Mutual note has a fixed rate, whereas the BrickStreet note has an initial fixed rate and converts to a fluctuating rate tied to the Prime Rate of interest.

The principal on the Physicians' Mutual note is not required to be paid or payments made thereon until July 31, 2034. Interest is payable subject to limitations contained in the note. In contrast, BrickStreet's principal is payable in yearly installments beginning July 30, 2007. Interest is payable biannually each year. As with all surplus notes, any payment is subject to prior approval of the Insurance Commissioner.

The terms of the Physicians' Mutual note prohibits the company from paying any dividends, writing coverage outside of the state, except for counties adjoining West Virginia, or selling, assigning, or transferring substantial assets until the note is paid in full. BrickStreet's note provides the same limitations as to dividends, selling, assigning, or transferring substantial assets as the Physicians' Mutual note. BrickStreet is additionally prohibited from writing any coverages other than workers' compensation insurance.

BrickStreet has further restrictions in its surplus note. BrickStreet has several requirements that include:

- (a) Showing the note as a footnote in the financial statements until paid in full;

(b) A requirement to attempt to maintain a ratio of undiscounted loss reserves to surplus of not more than 4.0:1;

(c) A requirement to seek a private letter ruling from the IRS that concludes the company is tax exempt until December 31, 2008;

(d) A requirement that BrickStreet notify the Insurance Commissioner of expenditures of capital assets of more than one hundred thousand dollars and contracts which will result in costs of more than one million dollars over the life of the contract; and

(e) Authorization for the Insurance Commissioner or her designee to attend all Board of Directors' meetings and committee meetings.

(4) What is revealed by a comparison of the enabling statutes for BrickStreet and the Physicians' Mutual?

The Physicians' Mutual is required to be a domestic, private, nonstock, nonprofit corporation under West Virginia Code Section 33-20F-4. BrickStreet's enabling statute in West Virginia Code Section 23-2C-3 requires it to be a domestic, private, nonstock corporation. BrickStreet is not required to be non-profit.

Under West Virginia Code Section 33-20F-4, the Physicians' Mutual must remain for the duration of its existence a domestic mutual insurance company owned by its members and may not be converted into a stock corporation, a for-profit corporation or any other entity not owned by its policyholders. In clear contrast, this same prohibition against converting to a stock company is not within the enabling statutes for BrickStreet.

The Physicians' Mutual is allowed to write nonassessable policies of medical professional liability insurance. It may also issue other types of casualty or liability insurance as approved by the Commissioner pursuant to West Virginia Code Section 33-20F-9. BrickStreet is authorized to provide workers' compensation insurance and other types of property and casualty insurance for which the company is qualified under West Virginia Code Section 23-2C-3.

Under West Virginia Code Section 33-20F-4, the Physicians' Mutual may not declare any dividend to its policyholders and may not sell, assign or transfer substantial assets of the company, or write coverage outside of West Virginia, except for adjoining counties of other states, until after all debts owed to the state have been fully paid. BrickStreet's enabling statutes do not have a similar provision as to declaration of dividends (although as noted above, BrickStreet's surplus note does). BrickStreet's enabling statutes do prohibit BrickStreet from selling, assigning or transferring substantial assets or ownership of the company. In addition, the statutes state that BrickStreet may not be dissolved and may not transact other kinds of property and casualty insurance for which the company is otherwise qualified under applicable law prior to the first day of January, two thousand nine.

The Physicians' Mutual and BrickStreet are taxed differently due to the requirement that BrickStreet obtain a private letter ruling from the IRS that it is exempt from federal income tax until December 31, 2008.

(5) Are there comparable restrictions on the business organization of the mutual insurer from Nevada's privatization of workers' compensation insurance?

The statutes directing Nevada's privatization efforts provided very few restrictions on the business organization of its mutual insurer. The law essentially directed the manager of the state industrial insurance system to take such actions as are necessary to establish a domestic mutual insurance company in Nevada to insure employers against liability for injuries and occupational diseases for which their employees may be entitled to receive compensation, to provide employer's liability insurance incidental to and provided in connection with workers' compensation insurance, and to transact such other kinds of property and casualty insurance for which the company is otherwise qualified under the Nevada insurance laws.

Once licensed by the Nevada Insurance Commission, an order authorizing the company to issue nonassessable policies was required to be issued. Nevada's governor was mandated to appoint an advisory committee to adopt the initial bylaws of the mutual company. The advisory committee was required to be composed of representatives of employers who were insured by the state industrial insurance. There were no other requirements as to organization or structure of the mutual insurer in Nevada's legislation other than to comply with the general corporate statutes and with the insurance code for licensure.

It appears that in 2003, Nevada's mutual company converted to a stock company and made an initial public offering.

(6) What access rights do BrickStreet's members have to corporate records?

West Virginia Code Section 33-5-12 provides that with respect to the management, records, and affairs of the insurer, a member of a domestic mutual insurer has the same character of rights and relationship as a stockholder has toward a domestic stock insurer. Therefore, one must look to the general corporation statutes to determine the level of access a member has to corporate records of a mutual insurer. These statutes are found in Chapter 31D of the West Virginia Code.

West Virginia Code Section 31D-3-302 provides that, unless its articles of incorporation provide otherwise, every corporation has the power to do all things necessary or convenient to carry out its business and affairs, including, the power to elect directors and appoint officers, employees and agents of the corporation; fix their compensation and lend them money and credit.

West Virginia Code Section 31D-16-1601 mandates certain records be kept by a corporation. For example:

(a) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each.

(d) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office:

(1) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(2) Its bylaws or restated bylaws and all amendments to them currently in effect;

(3) Resolutions adopted by its board of directors creating one or more classes or series of shares and fixing their relative rights, preferences and limitations if shares issued pursuant to those resolutions are outstanding;

(4) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three years;

(5) All written communications to shareholders generally within the past three years, including the financial statements furnished for the past three years under section one thousand six hundred twenty [§ 31D-16-1620] of this article; and

(6) A list of the names and business addresses of its current directors and officers.

The ability of a shareholder to inspect corporate records is provided under West Virginia Code Section 31D-16-1602:

(a) A shareholder of a corporation is entitled to inspect, during regular business hours at the corporation's principal office, any of the records of the corporation described in subsection (e) of West Virginia Code Section 31D-16-1601 if he or she gives the corporation written notice of his or her demand at least five business days before the date on which he or she wishes to inspect. This is essentially an inspection by right of the shareholder.

(b) A shareholder of a corporation is also entitled to inspect, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of (c) below and gives the corporation written notice of his or her demand at least five business days before the date on which he or she wishes to inspect and copy:

(1) Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under subsection (a), section one thousand six hundred two of this article;

(2) Accounting records of the corporation; and

(3) The record of shareholders.

(c) A shareholder may inspect and copy the records described in subsection (b) of this section only if:

(1) His or her demand is made in good faith and for a proper purpose;

(2) He or she describes with reasonable particularity his or her purpose and the records he or she desires to inspect; and

(3) The records are directly connected with his or her purpose.

There are thus two standards of inspection: the inspection by right set forth in (a) above, and inspection by notice with the demand made in good faith and for a proper purpose. If the officer and director compensation packages are recorded in the committee or directors' minutes or resolutions, the access by BrickStreet members would be through provision of notice to BrickStreet, with the demand made in good faith and for a proper purpose.

Essentially a request for minutes or resolutions of a committee of the Board of Directors relating to the fixing of management's compensation could be made pursuant to the concern that the compensation packages might be excessive and unreasonable. Both the stockholders and directors, in fixing compensation of officers, must act in good faith and reasonably. *Syl. Pt. 2, Collins v. Hite*, 109 W. Va. 79 (1930). The law is clear that a president or director of a corporation stands as a trustee for it as to property of the corporation committed to his hands for the purposes of the corporation.

Neither the stockholders nor the directors of a corporation can take advantage of their ownership of a controlling interest in the corporation to vote to themselves excessive salaries or to cause excessive salaries to be voted to them by persons under their control. Both the stockholders and directors in fixing compensation of officers must also act in good faith and reasonably. Whether a demand for inspection of records relating to the fixing of management compensation is made in good faith and for a proper purpose will ultimately be decided by a court if there is a dispute between the member and the corporation.

(7) What are BrickStreet By Laws?

The BrickStreet By Laws are attached.

(8) What are the voting rights of members?

Members receive one vote for each policy in effect.

(9) What is the ability to make next surplus note payment \$40M?

Based on their current financial position it is anticipated that BrickStreet will make the required \$40,000,000 payment on the surplus note as specified.

(10) What is the "Old Fund" cash flow?

See attached graph showing expenditures, revenue (including investment earnings), projected liabilities and assets.


(11) What are the total annual premiums for state government and other public entities?

State Government: \$18,243,415 (3.8%); Other Public Entities: \$34,826,004 (7.27%).
Total premium before payroll audits \$479,000,000.

Aaron Allred, Legislative Manager
Legislative Services
January 2, 2008
Page 9

Should you have any questions, please contact me.

Sincerely,


Jane L. Cline
Commissioner

JLC/ew

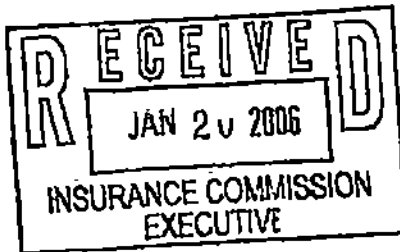
cc: Carte Goodwin, General Counsel, Governor's Office
Jim Pitrolo, Legislative & Public Policy Director, Governor's Office
Joe Martin, Deputy Chief of Staff, Governor's Office
Virgil Helton, Cabinet Secretary, DOR
Bill Kenny, Deputy Commissioner, WVOIC

Attachments



Office of General Counsel

January 20, 2006



VIA HAND-DELIVERY

Ms. Jane L. Cline, Insurance Commissioner
West Virginia Insurance Commission
1124 Smith Street, Greenbrooke Building
Room 413
Charleston, WV 25301

01-20-06A11:10 RCVD

RE: Amended and Restated By-Laws

Dear Commissioner Cline:

Enclosed please find the Amended and Restated By-Laws of the West Virginia Employers Mutual Insurance Company.

Please contact me with any questions regarding this matter.

Very truly yours,

Thomas J. Obrocka, Jr.
Vice President, General Counsel and Secretary
BrickStreet Mutual Insurance Company

TJO:ld

Enclosure

cc: Bill Kenny, Deputy Insurance Commissioner

**AMENDED AND RESTATED BYLAWS
OF
WEST VIRGINIA EMPLOYERS' MUTUAL
INSURANCE COMPANY**

Adopted on December 13, 2005

ARTICLE I -- OFFICES

Section 1.1. Offices. The principal office and principal place of the West Virginia Employers' Mutual Insurance Company ("Company") shall be in the City of Charleston, County of Kanawha, State of West Virginia. The board of directors may change said principal office from said location to another within the State of West Virginia and create such additional offices as the business of the Company may require.

ARTICLE II -- MEMBERSHIP

Section 2.1. Qualifications. Each person who holds a policy of insurance issued by the company or each person or entity named in the Schedule of Insureds under a policy of insurance issued by the Company who has paid in full the premium for such policy or has paid in full all installments due pursuant to a premium financing agreement with the Company shall, during the effective period of coverage of such policy, be a member of the Company and shall possess all the rights and obligations generally of members of mutual insurance companies as provided by law.

Section 2.2. Addresses of Members. All members shall keep the Company advised of their correct addresses.

Section 2.3. List of Members. There shall be kept at the principal office of the Company a list of current members and their addresses.

Section 2.4. Voting Rights. Each member is entitled, without regard to the number of policies held, the limits of coverage provided under such policy or policies, or the amount of premiums paid therefore, to one vote in the election of the board of directors and in any other matter which may come before the members of the Company for decision. Except as otherwise provided in the Articles of Incorporation of the Company, each member shall be entitled to one vote upon each matter submitted to a vote at a meeting of members. At each election for directors every member entitled to vote at such election shall have the right to cast one vote, in person or by proxy, in each election for each director to be elected.

Section 2.5. Voting by Certain Holders. A policy of insurance held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such policy into his name as long as such administrator, executor, guardian or conservator provides the Company with evidence of such status acceptable to the Company. A policy of insurance standing in the name of a trustee may be voted by him, either

in person or by proxy, but no trustee (other than a trustee in bankruptcy) shall be entitled to vote a policy of insurance held by him without a transfer of such policy of insurance into the trustee's name.

A policy of insurance standing in the name of a receiver may be voted by such receiver, and a policy of insurance held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

ARTICLE III -- MEETINGS OF MEMBERS

Section 3.1. Annual Meeting. The Annual Meeting of the members shall be held on the last Monday in October each year, at such time of day as the board of directors shall designate, for the purpose of electing directors, receiving reports of the officers, and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of West Virginia, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the date designated herein for any annual meeting, or at any adjournment thereof, the board of directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently possible.

Section 3.2. Nomination and Election of Directors. Upon expiration of the term of the initial directors appointed in accordance with Section 4.2, or upon a vacancy of the board following December 31, 2008, not less than forty (40) days before the Annual Meeting in each year, the Nominating Committee for such year shall file with the secretary a list of nominees for directors of the Company. Directors may also be nominated by ten percent (10%) of the members in good standing in writing filed with the secretary no less than thirty-five (35) days before the date of the Annual Meeting of members. The names of all persons nominated for election as directors shall be included in the notice of meeting given to each member entitled to vote. Voting for directors shall be done by ballot, and a plurality of all votes cast at an election at which a quorum of members is present shall be sufficient to elect. Each member eligible to vote shall cast the number of votes specified in Article 2, Section 4 for each office of director to be filled.

Section 3.3. Special Meetings. Special meetings of the members shall be called by the secretary upon written request of the CEO, the chair, a majority of the board of directors, or not less than one-tenth (1/10) of the members. The special meeting shall be held at such time as the secretary may fix, but not less than ten (10) nor more than thirty (30) days after receipt of the request.

Section 3.4. Place of Meetings. The board of directors may designate in a notice, or in a waiver of notice of a meeting signed by all members entitled to vote at a meeting, unless otherwise prescribed by statute, any place, either within the State of West Virginia or outside the State of West Virginia, as the place of meeting for any annual meeting or for any special meeting called by the board of directors. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the Company in the State of West Virginia.

Section 3.5. Notice of Meeting. Written notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called shall, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the chair, CEO, secretary, or the persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at such member's address as it appears on the books of the Company, with postage thereon prepaid. If the annual or special meeting is adjourned to a different date, time or place, notice is not required to be given of the new date, time or place if the new date, time or place is announced at the meeting prior to adjournment.

Section 3.6. Closing of Transfer Books or Fixing of Record Date. For the purpose of determining members entitled to notice of or to vote at any meeting of members or any adjournment thereof, members entitled to demand a special meeting, or in order to make a determination of members for any other proper purpose, the board of directors of the Company may provide that the books shall be closed for a stated period but not to exceed, in any case, sixty (60) days. If the books shall be closed for the purpose of determining members entitled to notice of or to vote at a meeting of members, such books shall be closed for at least ten (10) days immediately preceding such meeting. In lieu of closing the books, the board of directors may fix in advance a date as the record date for any such determination of members, such date in any case to be not more than seventy (70) days and, in case of a meeting of members, not less than ten (10) days prior to the date on which the particular action, requiring such determination of members, is to be taken. If the books are not closed and no record date is fixed for the determination of members entitled to notice of or to vote at a meeting of members, the date on which notice of the meeting is mailed shall be the record date for such determination of members. When a determination of members entitled to vote at any meeting of members has been made as provided in this section, such determination shall apply to any adjournment thereof, unless the meeting is adjourned to more than one hundred twenty days after the date fixed for the original meeting. If the meeting is adjourned to more than one hundred twenty days after the date fixed for the original meeting, then the board of directors shall declare a new record date.

Section 3.7. Voting List. The officer or agent having charge of the books for members of the Company shall make a complete list of the members entitled to vote at each meeting of members or any adjournment thereof, arranged in alphabetical order, with the address of and the number of votes held by each. Such list shall be available for inspection by any member, beginning two (2) business days after notice of the meeting is given, and continuing through the meeting.

Section 3.8. Quorum. The presence of one hundred (100) of the members at any meeting shall constitute a quorum. For purposes of the bylaws, a member shall be deemed to be present at any meeting of members at which the member is present in person or present by proxy. Every act or decision done or made by a majority of the members present at a meeting duly held, at which a quorum is present, shall be regarded as a valid act of the members, unless a greater number be required by law, the articles of incorporation or by the bylaws. If a quorum is not present at any meeting of members, the chair, CEO or a majority of the members present may

adjourn the meeting from time to time for a period not in excess of thirty (30) days, without further notice.

Section 3.9. Proxies. A member may vote in person or by written proxy at any meeting of members. Proxies must be received by the secretary not less than one (1) day prior to any meeting. Proxies shall be revocable. No proxy shall be valid after the meeting for which the proxy was solicited.

Section 3.10. Solicitation of Proxies. At a meeting of the board of directors preceding an annual meeting of members, a Proxy Committee may be designated by the board of directors. The Proxy Committee may utilize the facilities of the Company for the purpose of soliciting sufficient proxies to insure a quorum at the annual meeting. The expense of the Proxy Committee incurred in the solicitation of proxies shall be defrayed from the funds of the Company. No employee or officer of the Company, other than the Proxy Committee, shall be authorized to utilize corporate facilities or funds for the purpose of soliciting proxies from the members.

Section 3.11. Presiding Officer; Recording Officer. At all meetings of the members, the chair, or in the absence of the chair, any director elected by the directors present, shall preside. The secretary or in the absence of the secretary, any person appointed by the directors present, shall keep a record of the proceedings. The records shall be verified by the signature of the person acting as chairperson of the meeting.

ARTICLE IV – BOARD OF DIRECTORS

Section 4.1. Provisional Board of Directors. From the date of the inception of the Company through January 1, 2006, the Company shall be governed by a provisional board of directors as provided by W. Va. Code § 23-2C-4 from the following:

4.1.1. Three (3) persons on the executive committee of the workers' compensation board of managers; and

4.1.2 Four (4) members of the Legislature; two (2) of which shall be members of the West Virginia Senate and two (2) members of the West Virginia House of Delegates. These members shall serve as advisory non-voting members of the board of directors. The governor shall appoint the legislative members to the board of directors. No more than three (3) of the legislative members shall be of the same political party.

Section 4.2. Initial Board of Directors. Effective the first day of January, 2006, the Company shall be governed by an initial board of directors consisting of seven (7) directors. The initial board of directors appointed by the governor shall serve from January 1, 2006, through December 31, 2008, and shall not be removed as a director of the Company except for cause. Upon expiration of the terms of the initial directors appointed in accordance with Section 4.2, or upon a vacancy of the board following December 31, 2008, the directors of the Company are to be chosen in accordance with the articles of incorporation and these bylaws of the Company. The board of directors shall consist of the following:

- 4.2.1 Three (3) owners or officers of an entity that has purchased or will immediately upon termination of the West Virginia workers' compensation commission purchase and maintain an active workers' compensation insurance policy from the Company. At least one shall be a certified public accountant with financial management or pension or insurance audit expertise and at least one shall be an attorney with financial management experience. These three (3) directors shall be appointed by the governor.
- 4.2.2 Two (2) directors who have substantial experience as an officer or employee of a company in the insurance industry, one of whom is from a company with less than fifty (50) employees. These two (2) directors shall be appointed by the governor.
- 4.2.3 One (1) director with general knowledge and experience in business management who is an officer and employee of the Company and is responsible for the daily management of the Company.
- 4.2.4 The chief executive officer of the Company.

Section 4.3. Election and Terms of Board of Directors Commencing on January 1, 2009. Effective the first day of January, 2009, the Company shall be governed by a board of directors consisting of seven (7) directors from the following:

- 4.3.1 At least three (3) owners or officers of an entity that has an active workers' compensation insurance policy from the Company. At least one shall be a certified public accountant with financial management or pension or insurance audit expertise and at least one shall be an attorney with financial management experience.
- 4.3.2 At least two (2) directors who have substantial experience as an officer or employee of a company in the insurance industry, one of whom is from a company with less than fifty (50) employees.
- 4.3.3 One (1) director chosen by the Chief Executive Officer with general knowledge and experience in business management who is an officer and employee of the Company and is responsible for the daily management of the Company.
- 4.3.4 The chief executive officer of the Company.
- 4.3.5 Board members elected for the terms beginning January 1, 2009 shall serve the following initial terms: 1) three for four-year terms; 2) two for three year terms; and 3) two for two-year terms. The Nominating Committee shall assign nominees to the initial terms prior to said election. Thereafter, the directors shall serve staggered terms of four (4) years.

Section 4.4. General Powers. The affairs of the Company shall be managed until January 1, 2006 by its provisional board of directors and thereafter by its board of directors, the powers of which shall include, but not be limited to, the following:

- 4.4.1. The provisional board shall have the authority to function as necessary to establish the Company and cause it to become operations, including the right to contract on behalf of the Company.
- 4.4.2. The board of directors shall manage the business and affairs of the Company and shall be vested with all of the powers granted the Company in its articles of incorporation and possessed by it under the applicable laws of the State of West Virginia.
- 4.4.3. The board of directors shall be authorized to enter into contracts on behalf of the Company and for the investment of the assets of the Company.
- 4.4.4. The board of directors may authorize the appointment of such committees as in the exercise of its discretion it may deem necessary.
- 4.4.5. The board of directors may prescribe the terms and conditions under which membership in the Company may be granted, continued or terminated.

Section 4.5. Eligibility of Board.

Owners, directors or employees of employers otherwise licensed to write workers' compensation insurance in this State or licensed or otherwise authorized to act as a third-party administrator shall not be eligible to be nominated, appointed, elected or serve on the Company's board of directors.

Section 4.6. Regular Meeting. A regular annual meeting of the board of directors shall be held without other notice than this bylaw, immediately after and at the same place as the annual meeting of members. Regular meetings of the directors shall be held as directed by the chair. The board of directors may provide by resolution the time and place, either within or without the State of West Virginia, for the holding of additional regular meetings of the board.

Section 4.7. Special Meetings. Special meetings of the board of directors may be called by the chair or any three (3) directors. The person or persons authorized to call special meetings of the board may fix any place within the State of West Virginia, as the place for holding any special meeting of the board called by them.

Section 4.8. Informal Action by Board. Any action required by law to be taken at a meeting of the board of directors or of a committee of directors, may be taken without a meeting if all of the directors, or all of the members of the committee, as the case may be, sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action.

Section 4.9. Written Agreement in Lieu of Meeting. Whenever the vote of directors at a meeting thereof is required or permitted to be taken in connection with any corporate action, the meeting and vote of such directors may be dispensed with if all of the directors shall consent and agree in writing to such corporate action being taken, and such agreement (which shall set forth the action so taken and be signed by all of the directors) shall have like effect and validity as though the action were duly taken by the unanimous action of all directors at a meeting of such directors duly called and legally held. Action taken by written agreement in lieu of meeting is effective when the last director signs the agreement, unless the agreement specifies a different effective date.

Section 4.10. Notice. Notice of any special meeting of the board of directors shall be given at least three (3) days previous thereto by written notice, or, if requested by the director, by facsimile or electronic transmission, to each director at the address or telephone number as shown on the records of the Company. Any director may waive notice of any meeting, either before or after such meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where the director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The business to be transacted at the meeting need not be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these bylaws.

Section 4.11. Quorum. A majority of directors then in office shall constitute a quorum for the transaction of business at any meeting of the board; but if less than a majority of the directors are present at said meeting, a majority of directors present may adjourn the meeting from time to time without further notice.

Section 4.12. Manner of Acting. The act of a majority of directors present and voting at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by law or by these bylaws. Any action required or permitted to be taken by the board of directors or a committee may be taken without a meeting if all members of the board or committee shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as a unanimous vote of such directors.

Section 4.13. Removal of Directors. At a meeting of members called expressly for that purpose, any director or the entire board of directors, except for the directors appointed by the governor, which shall not be removed as directors except for cause, may be removed, with or without cause, by a vote of the holders of sixty-six percent (66%) of the members entitled to vote at an election of directors. If less than the entire board is to be removed, no one of the directors may be removed if the votes cast against his/her removal would be sufficient to elect him/her. The notice of meeting must state that the purpose, or one of the purposes, of the meeting is removal of one or more of the directors.

Section 4.14. Vacancies. Any vacancies existing in the board of directors from January 1, 2006, through December 31, 2008, shall be filled through appointment by the governor for the unexpired term. Commencing on January 1, 2009, any vacancies existing in the board of directors may be filled by the affirmative vote of a majority of the remaining directors though

less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 4.15. Chair of the Board. The board of directors may elect a chair who shall preside at all meetings of the board of directors.

Section 4.16. Standard of Conduct. Each member of the board of directors, when discharging the duties of a director, shall act in good faith and in a manner the director reasonably believes to be in the best interests of the Company. The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

Section 4.17. Presiding Officer, Recording Officer. At all meetings of the board of directors, the chair, or in the absence of the chair, any director elected by the directors present, shall preside. The secretary of the board of directors or in the absence of such secretary, any person appointed by the directors present, shall keep a record of the proceedings. The records shall be verified by the signature of the person acting as chairperson of the meeting.

Section 4.18. Committees. The board of directors, by resolution adopted by a majority of the full board of directors, may designate individuals from among its members to serve on the executive committee, audit committee, governance and nominating committee, investment and finance committee, compensation committee, and such other committees established by the board of directors.

ARTICLE V -- OFFICERS

Section 5.1. Officers. The officers of the Company shall be a CEO, vice-presidents, a secretary, and a treasurer. One person may hold two (2) or more offices. The board of directors may appoint such other officers and agents as it shall deem necessary or expedient that shall hold office for such terms, and shall exercise such powers and perform such duties, as shall be determined from time to time by the board. The board may authorize the CEO to appoint any such officers and agents and establish the terms of conditions of such officers and agents.

Section 5.2. Election and Term of Office. Except for the officers elected and appointed by the provisional board of directors which shall serve until their successors are elected by the board of directors, the vice-presidents, secretary, and treasurer and such other officers as the board of directors chooses shall be elected for a term established by the board of directors and shall hold office until their successors are elected and qualified. Any officers elected or appointed by the board of directors may be removed at any time, with or without cause, by the affirmative vote of a majority of the directors then in office. An officer's removal or resignation does not affect the officer's contract rights, if any. Any officer or agent appointed by the CEO may be removed at any time, with or without cause, by the CEO.

Section 5.3. Removal and Resignation. Any officer or agent may be removed by the board of directors at any time with or without cause. An officer may resign at any time by delivering notice to the Company. A resignation is effective when the notice is delivered unless

the board of directors agrees to a later resignation date. An officer's removal or resignation does not affect the officer's contract rights, if any. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 5.4. Vacancies. Vacancies in any office arising from any cause may be filled by the board of directors or the CEO, as appropriate, at any regular or special meeting.

Section 5.5. Bonds. The board of directors may, by resolution, require any or all of the officers to give bonds to the Company, with sufficient surety or sureties, conditioned for the faithful performance of the duties of their respective offices and to comply with such other conditions as may from time to time be required by the board of directors.

Section 5.6. Chief Executive Officer. The Chief Executive Officer ("CEO") shall perform such other duties as the board of directors or the bylaws may prescribe.

Section 5.7. Vice-Presidents. Each vice-president shall have such powers and discharge such duties as may be assigned from time to time by the board of directors.

Section 5.8. Secretary. The secretary shall issue notices, when required, for all meetings. The secretary shall keep minutes of all meetings, shall authenticate corporate records, shall have charge of the seal and the corporate books and shall make such reports and perform such duties as are incident to the office or as are properly required by the CEO or the board of directors.

Section 5.9. Treasurer. The treasurer shall provide for the custody of all assets of the Company and for appropriate systems and controls for such assets, and shall cause to be kept regular books of account. The treasurer shall render to the board of directors from time to time as may be required an account of all transactions as treasurer and of the financial condition of the Company; and shall perform all duties incident to the office or properly required by the CEO or the board of directors.

Section 5.10. Absentee Officers. During the absence or disability of the CEO, the following order of officers shall exercise all the functions of the CEO: vice-presidents, treasurer and secretary. In case any other officer of the Company and any person authorized to act in such officer's place, are absent or unable to act, the CEO, or the board of directors may from time to time delegate the powers or duties of such officer to any other officer, director or person whom it may elect.

Section 5.11. Standards of Conduct of Officers. Each officer, when performing in his official capacity, shall act in good faith, with the care that a person in a like position would reasonably exercise under similar circumstances and in a manner the officer reasonably believes to be in the best interests of the Company.

Section 5.12. Salaries. The salaries of the officers shall be fixed from time to time by the board of directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Company.

ARTICLE VI CONTRACTS AND ACCOUNTS

Section 6.1. Receipts. The chair, CEO, vice-presidents, secretary and treasurer are each authorized to receive and receipt for all moneys due and payable to the Company from any source whatsoever, and to endorse for deposit checks, drafts, and other money orders in the name of the Company or on its behalf, and to give full discharge and receipt therefore.

Section 6.2. Contracts. The board of directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Company, and such authority may be general or confined to specific instances.

Section 6.3. Loans. No loans shall be contracted on behalf of the Company and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the board of directors. Such authority may be general or confined to specific instances.

Section 6.4. Deposits. All funds of the Company not otherwise employed shall be deposited from time to time to the credit of the Company in such banks, trust companies or other depositories as the board of directors may select.

Section 6.5. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Company shall be signed by such officer or officers, agent or agents of the Company and in such manner as shall from time to time be determined by resolution of the board of directors.

ARTICLE VII -- COMMITTEES

Section 7.1. Executive Committee. There may be an Executive Committee consisting of the members of the board of directors selected by the Board of Directors. If created, this committee shall have full power to manage and conduct the business and affairs of the Company. It shall keep a record of all its proceedings and report the same to the board of directors at each meeting of the board. If an Executive Committee is not created, the duties and responsibilities set forth in this Section shall be performed by the Board of Directors as a whole.

Section 7.2. Audit Committee. There shall be an Audit Committee consisting of at least three (3) members of the board of directors. Committee members may not receive any salary or other compensation from the Company, specifically excepting regular fees for meetings of directors or committees.

The Audit Committee shall review the financial reporting and internal and external audit controls of the Company. It shall meet regularly with the Company's independent accountants and review their reports. It shall also meet with the insurance department examiners as appropriate upon the completion of their examination. It shall review the Company's policies and practices relating to compliance with the applicable laws and regulations, ethics, conflicts of interest and the investigation of allegations of misconduct and fraud. It shall report annually to the board of directors, and additionally as the board or the Audit Committee deems appropriate.

Section 7.3. Governance and Nominating Committee. There shall be a Governance Committee consisting of a minimum of three (3) members of the board of directors who shall have authority to assist the board of directors in responding to its fiduciary obligations, develop criteria for membership on the board of directors, provide for appropriate succession of senior management and make recommendations and nominations for membership on the board of directors. The Committee shall assist the Company and the chair with respect to the assignment of directors to committees and conduct an evaluation of the performance of the directors. Finally, the committee shall prepare a list of nominees for election as directors of the Company at the annual meeting of members, and such Committee shall submit such list (consisting of a number of nominees equal to the number of directors to be elected) to the secretary within the time period prescribed by Article 3, Section 2 of these bylaws.

Section 7.4. Investment and Finance Committee. There shall be an Investment and Finance Committee consisting of at least three (3) members of the board of directors and the treasurer and chief financial officer, and such other Committee members who shall be nominated by the chair and elected by the board. The Investment and Finance Committee shall have specific authority and responsibility over the finances of the Company and to direct the investment of the assets of the Company.

Section 7.5. Compensation Committee. There shall be a Compensation Committee consisting of at least three (3) members of the board of directors. The Committee will assist the board of directors in establishing appropriate levels of compensation and fringe benefits for the Company's board of directors, and officers. The Committee shall also review the Company's overall compensation program to ensure that it is effective and equitably applied.

Section 7.6. Other Committees. Other committees, including but not limited to a Risk Management Committee, Claims Committee, and Underwriting Committee, not having and exercising the authority of the board of directors in the management of the Company, maybe designated annually by the chair, or CEO, subject to the approval by the board of directors. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interest of the Company shall be served by such removal.

Section 7.7. Term of Office. Each member of a committee shall continue as such until the next annual meeting of the members of the Company and until the successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

Section 7.8. Committee Chair. One (1) member of each committee shall be appointed chair by the person or persons authorized to appoint the members thereof.

Section 7.9. Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 7.10. Quorum. Unless otherwise provided in the resolution of the board of directors designating a committee, a majority of the whole committee shall constitute a quorum, and the act of the majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7.11. Rules. Each committee may adopt rules for its own government not inconsistent with these bylaws or with the rules adopted by the board of directors.

ARTICLE VIII – NOTICES

Section 8.1. Giving of Notice. Whenever the provisions of the law or these bylaws require notice to be given to any director, officer or member, written notice stating the necessary information shall be sent by mail, or, if the recipient requests, by facsimile or electronic transmission, at least five (5) days prior to the event described in such notice.

Section 8.2. Waiver of Notice. A waiver of notice in writing, signed by a member, director or officer, either before or after the time stated in the said waiver for holding a meeting, shall be deemed equivalent to a notice required to be given to any director, officer or member and said waiver shall be filed with the minutes or corporate records.

ARTICLE IX – INSURANCE AND SURPLUS

Section 9.1. Policies Nonassessable. Except as otherwise provided in the Articles of Incorporation of the Company, all policies of insurance issued by the Company shall be nonassessable, and the members and policyholders of the Company shall have no contingent liability for the expenses or losses incurred by the Company.

Section 9.2. Reserves and Surplus. To provide greater security against possible hazards and contingencies, the board of directors may provide for additions to the surplus of the Company, as in its judgment are reasonable and proper.

ARTICLE X – INDEMNIFICATION

Section 10.1. Indemnification. To the fullest extent permitted by the laws of the State of West Virginia as the same exist or hereafter may be amended, every person who now is or hereafter a director, officer or employee of the Company shall be indemnified by the Company against all judgments, costs and expenses (including legal counsel fees) actually and necessarily incurred by or imposed upon him or her in connection with or resulting from any threatened, pending or completed action, suit or proceeding of whatever nature to which he or she is or shall be made a party by reason of his or her being or having been a director, officer or employee of the Company (whether or not he or she is a director, officer or employee of the Company at the time he or she is made a party to such threatened, pending or completed action, suit or proceeding, or at the time such judgments, costs or expenses are incurred or imposed upon him or her). In the event of termination or settlement of such threatened, pending or completed action, suit or proceeding in the absence of such adjudication, indemnification shall include reimbursement of amounts paid in settlement and expenses actually and necessarily incurred by such director, officer, or employee in connection therewith.

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Company in advance of the final disposition of such action, suit or proceeding as authorized by the board of directors or by legal counsel, in the specific case as provided by law.

All such indemnification shall be in addition to any other rights to which the person may be entitled under any law, insurance policy, statute, agreement, vote of the board of directors, or otherwise.

Section 10.2. Insurance. The Company may purchase and maintain insurance on behalf of an individual who is a director or officer of the Company, or who, while a director or officer of the Company, serves at the Company's request as a director, officer, partner, trustee, employee or agent of another domestic or foreign Company, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as a director or officer, whether or not the Company would have power to indemnify or advance expenses to him or her against the same liability under Section 10.1 of these bylaws.

ARTICLE XI – AMENDMENTS

Section 11.1. Bylaws – Annual Meeting. These bylaws may be amended or repealed in a regular or special meeting of the board of directors by a majority vote of the directors then in office, or, if the Company has members, by the majority vote of the members who are present in person or by proxy any special or annual meeting thereof, provided the notice of such meeting gives notice of such proposed action. Notwithstanding the foregoing, the date of the annual meeting of members may be changed only by action taken by the members at an annual meeting.

ARTICLE XII – MISCELLANEOUS

Section 12.1. Fiscal Year. The fiscal year of the Company shall be the calendar year.

Section 12.2. Seal. The seal of the Company shall be in the form of a circle and shall have inscribed thereon the name of the Company, the year of its organization and otherwise in a form prescribed by the board of directors. An imprint of the seal may be used to certify the authenticity of, but shall not be requisite to the validity of, any instrument or official document executed by or on behalf of the Company.

Section 12.3. Minutes of Meetings. Summaries or minutes of the proceedings of all meetings of the board of directors, committees, and members shall be kept at the principal office of the Company.

Section 12.4. Books and Records. Books of accounts and records of all transactions of the Company shall be maintained at the principal office of the Company.

The undersigned certifies that the foregoing amended and restated bylaws have been adopted as the official bylaws of the Company pursuant to the requirements of applicable law.

Dated: 12/13/05


James Robert Alsop, Designee, Governor's Office


Gene F. Bailey, Board Member


Everette E. Sullivan, Board Member

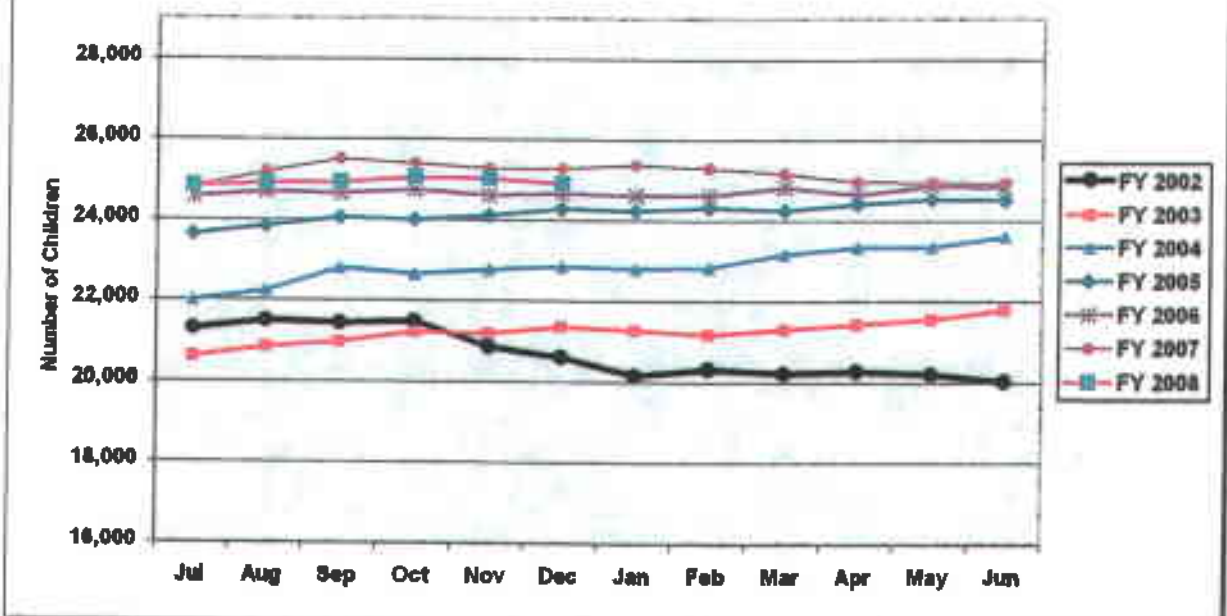


**West Virginia
Children's Health Insurance Program
1018 Kanawha Boulevard East
Suite 209
Charleston, WV 25301
Phone: 304-558-2732
Toll-Free: 1-877-WVA CHIP
Fax: 304-558-2741
www.wvchip.org**

**Joint Committee on
Government and Finance
Report**

January 2008

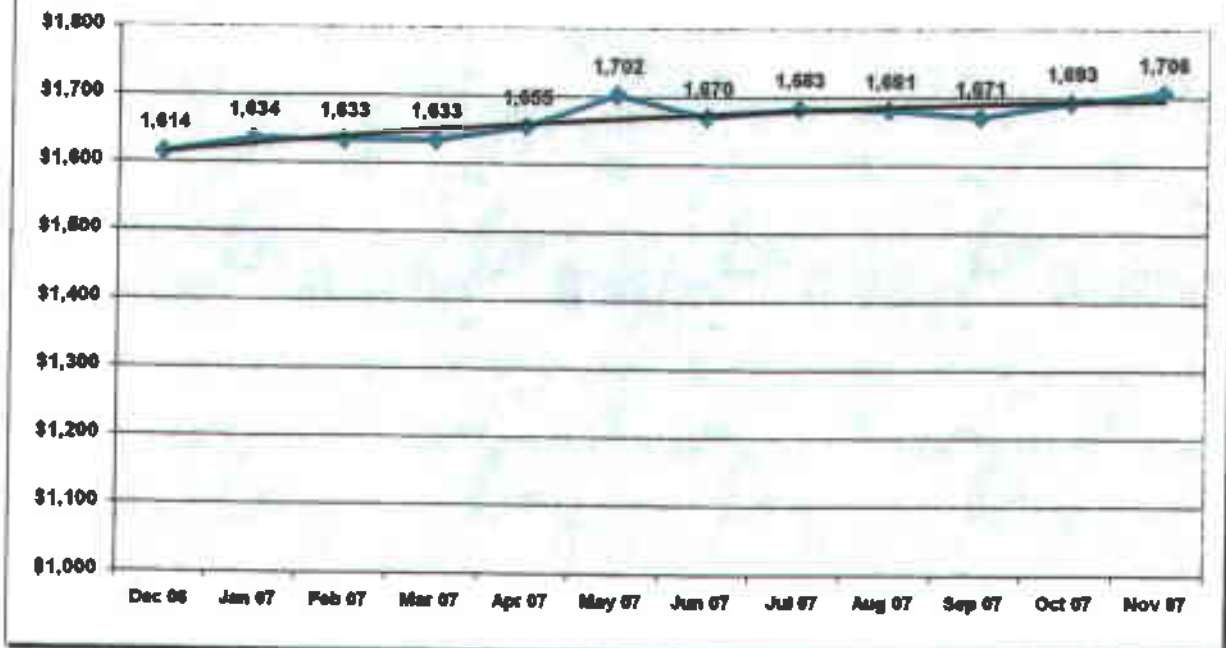
WV CHIP Enrollment



December 31, 2007 Enrollment 24,893

Annualized Health Care Expenditures

(Cost per Child)



**West Virginia Children's Health Insurance Program
Comparative Balance Sheet
November 30, 2007 and 2006
(Accrual Basis)**

	November 30, 2007	November 30, 2006	Variance	
Assets:				
Cash & Cash Equivalents	\$6,389,109	\$2,310,610	\$4,078,499	177%
Due From Federal Government	\$3,377,989	\$2,817,011	\$560,978	20%
Due From Other Funds	\$742,515	\$559,719	\$182,796	33%
Accrued Interest Receivable	\$23,091	\$11,873	\$11,218	94%
Fixed Assets, at Historical Cost	<u>\$81,147</u>	<u>\$83,071</u>	<u>(\$1,924)</u>	<u>-3%</u>
Total Assets	<u>\$10,593,851</u>	<u>\$5,782,284</u>	<u>\$4,831,567</u>	<u>84%</u>
Liabilities:				
Due to Other Funds	\$300,504	\$111,246	\$189,258	170%
Deferred Revenue	\$1,057,965	\$438,128	\$619,837	141%
Unpaid Insurance Claims Liability	<u>\$3,820,000</u>	<u>\$2,830,000</u>	<u>\$990,000</u>	<u>35%</u>
Total Liabilities	<u>\$5,178,469</u>	<u>\$3,379,374</u>	<u>\$1,799,095</u>	<u>53%</u>
Fund Equity	<u>\$5,415,382</u>	<u>\$2,382,910</u>	<u>\$3,032,472</u>	<u>127%</u>
Total Liabilities and Fund Equity	<u>\$10,593,851</u>	<u>\$5,782,284</u>	<u>\$4,831,567</u>	<u>84%</u>

PRELIMINARY FINANCIAL STATEMENTS

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
Comparative Statement of Revenues, Expenditures and Changes in Fund Balances
For the Five Months Ending November 30, 2007 and November 30, 2008
(Modified Accrual Basis)

	November 30, 2007	November 30, 2008	Variance	
Revenues:				
Federal Grants	15,428,020	14,063,041	1,365,979	10%
State Appropriations	4,606,978	4,608,015	983	0%
Premium Revenues	29,708	-	29,708	
Investment Earnings	<u>108,393</u>	<u>50,053</u>	<u>58,340</u>	117%
Total Operating Revenues	<u>20,174,097</u>	<u>18,719,109</u>	<u>1,454,988</u>	<u>8%</u>
Operating Expenditures:				
Claims:				
Outpatient Services	4,523,900	3,979,442	544,458	14%
Physicians & Surgical	3,684,869	3,447,164	217,705	6%
Prescribed Drugs	3,368,279	3,262,740	105,539	3%
Dental	2,181,372	2,018,406	162,966	8%
Inpatient Hospital Services	1,798,417	1,834,191	(37,774)	-2%
Vision	554,930	528,823	26,107	5%
Outpatient Mental Health	478,407	520,661	(42,254)	-8%
Inpatient Mental Health	222,458	381,405	(158,947)	-42%
Durable & Disposable Med. Equip.	178,729	172,168	6,561	4%
Therapy	177,293	145,756	31,507	22%
Medical Transportation	121,847	174,597	(52,750)	-30%
Other Services	34,751	56,014	(21,263)	-38%
Less: Collections*	<u>(361,543)</u>	<u>(320,281)</u>	<u>(41,262)</u>	13%
Total Claims	<u>16,941,679</u>	<u>16,201,066</u>	<u>740,593</u>	<u>5%</u>
General and Admin Expenses:				
Salaries and Benefits	210,602	188,147	22,455	12%
Program Administration	880,836	800,888	79,947	10%
Eligibility	130,232	127,270	2,962	2%
Outreach & Health Promotion	29,206	9,815	19,391	198%
Current	<u>51,279</u>	<u>36,370</u>	<u>14,909</u>	41%
Total Administrative	<u>1,302,154</u>	<u>1,162,490</u>	<u>139,664</u>	<u>12%</u>
Total Expenditures	<u>18,243,833</u>	<u>17,363,576</u>	<u>880,257</u>	<u>5%</u>
Excess of Revenues				
Over (Under) Expenditures	1,930,264	1,365,533	574,731	42%
Fund Equity, Beginning	<u>3,485,118</u>	<u>1,027,377</u>	<u>2,457,741</u>	<u>239%</u>
Fund Equity, Ending	<u>5,415,382</u>	<u>2,382,910</u>	<u>3,032,472</u>	<u>127%</u>

* Collections are primarily drug rebates and subrogation

* State Appropriations restated in prior year to actual draw deposited

PRELIMINARY FINANCIAL STATEMENTS

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
 Budget to Actual Statement
 State Fiscal Year 2008
 For the Five Months Ended November 30, 2007

	Budgeted for Year	Year to Date Budgeted Amt	Year to Date Actual Amt	Year to Date Variance*		Monthly Budgeted Amt	Nov-07	Oct-07	Sep-07
Projected Cost	\$49,020,492	\$20,425,205	\$17,157,784	\$3,287,421	16%	\$4,085,041	\$4,309,359	\$3,916,118	\$2,408,572
Premiums	138,290	68,788	29,706	\$27,082	-48%	11,358	7,042	7,565	5,453
Medical Copays	578,800	240,333	0	240,333	-100%	48,067			
Drug Copays	489,250	203,854	0	203,854	-100%	40,771			
Subrogation & Rebates	780,000	316,887	315,825	842	0%	63,333	44,029	45,718	55,366
Net Benefit Cost	47,058,152	\$19,807,583	\$16,828,860	\$2,780,703	14%	3,821,513	4,285,330	3,870,400	2,347,753
Salaries & Benefits	\$519,873	\$216,530	\$210,600	\$5,930	3%	\$43,308	\$40,673	\$40,538	\$40,243
Program Administration	2,188,798	902,832	768,942	135,889	15%	180,566	70,783	158,251	189,848
Eligibility	340,055	141,880	88,887	52,823	37%	28,338	845	883	80,883
Outreach	27,157	11,315	29,208	(17,890)	-158%	2,263	14,552	11,602	1,780
Current Expense	287,741	119,882	55,880	63,913	53%	23,978	7,687	11,038	18,320
Total Admin Cost	\$3,341,422	\$1,382,259	\$1,151,595	\$240,664	17%	\$278,452	\$134,520	\$222,112	\$330,884
Total Program Cost	\$50,399,574	\$20,999,823	\$17,978,455	\$3,021,368	14%	\$4,199,965	\$4,399,850	\$4,092,512	\$2,678,637
Federal Share 80.97%	40,823,655	\$17,009,858	\$14,654,311	2,355,546	14%	3,401,871	3,608,997	3,355,041	2,172,107
State Share 18.03%	9,575,919	\$3,989,965	\$3,324,144	665,822	17%	797,993	792,853	737,471	506,530
Total Program Cost	\$50,399,574	\$20,999,823	\$17,978,455	\$3,021,368	14%	\$4,199,965	\$4,399,850	\$4,092,512	\$2,678,637

* Positive percentages indicate favorable variances

** Budgeted Year Based on CCRC Actuary 8/30/2007 Report.

Please note: Medical and Drug Co-pay figures are incomplete.

Unaudited - Cash Basis For Management Purposes Only - Unaudited

WV CHIP Enrollment Report

ATTACHMENT 1

December 2007

County Ranking	County Pop. 2005 Est. (0-18 Yrs)	Total CHIP Enrollment Dec-07	Total Medicaid Enrollment Nov-07	Total CHIP/Medicaid Enrollment	CHIP/Medicaid Enrollment % of Population	Total % Insured 3/2002*	# Children Insured Ranking*	Est. # Uninsured Eligible*
Barbour	3,248	328	1,509	1,837	56.6%	92.5%	34	255
Berkeley	22,882	1,130	5,162	6,292	27.5%	93.9%	21	1,084
Boone	5,706	313	2,437	2,750	48.2%	97.9%	4	133
Braxton	3,044	205	1,534	1,739	57.1%	95.6%	13	155
Brooke	4,658	299	1,407	1,706	36.6%	98.5%	3	0**
Cabell	18,900	997	7,671	8,668	45.9%	91.6%	39	1,218
Calhoun	1,389	121	814	935	67.3%	88.0%	52	207
Clay	2,454	199	1,328	1,527	62.2%	95.1%	15	94
Doddridge	1,607	118	697	815	50.7%	96.4%	6	60
Fayette	9,692	941	4,581	5,522	57.0%	92.1%	36	706
Gilmer	1,154	92	552	644	55.8%	92.8%	32	115
Grant	2,463	147	867	1,014	41.2%	95.8%	11	82
Greenbrier	7,110	596	2,614	3,210	45.1%	94.8%	17	306
Hampshire	5,110	272	1,762	2,034	39.8%	91.3%	40	295
Hancock	6,270	389	2,143	2,532	40.4%	92.9%	31	443
Hardy	2,950	146	942	1,088	36.9%	93.6%	26	200
Harrison	14,973	915	5,654	6,569	43.9%	99.9%	1	0**
Jackson	6,277	383	2,278	2,661	42.4%	93.9%	22	340
Jefferson	11,465	423	1,966	2,389	20.8%	93.9%	23	651
Kanawha	40,647	2,082	15,856	17,938	44.1%	96.4%	7	772
Lewis	3,577	298	1,751	2,049	57.3%	88.0%	53	431
Lincoln	4,945	407	2,419	2,826	57.2%	93.3%	27	327
Logan	7,610	546	3,777	4,323	56.8%	92.1%	37	654
Marion	11,245	795	4,113	4,908	43.6%	95.9%	10	516
Marshall	7,176	415	2,605	3,020	42.1%	97.5%	5	217
Mason	5,461	337	2,297	2,634	48.2%	95.7%	12	249
McDowell	5,170	430	3,290	3,720	72.0%	93.8%	25	373
Mercer	12,687	1,087	6,286	7,373	58.1%	91.0%	41	1,268
Mineral	5,973	295	1,892	2,187	36.6%	90.7%	43	251
Mingo	6,204	431	3,174	3,605	58.1%	88.5%	51	566
Monongalia	14,346	731	3,855	4,586	32.0%	92.6%	33	1,144
Monroe	2,728	268	883	1,151	42.2%	93.1%	29	196
Morgan	3,365	236	960	1,196	35.5%	89.2%	49	285
Nicholas	5,478	474	2,424	2,898	52.9%	94.4%	19	324
Ohio	9,068	524	2,958	3,482	38.4%	95.6%	14	480
Pendleton	1,632	110	376	486	29.8%	99.0%	2	19
Pleasants	1,593	101	470	571	35.8%	93.9%	24	88
Pocahontas	1,717	148	631	779	45.4%	87.7%	54	224
Preston	6,354	525	2,241	2,766	43.5%	90.2%	47	236
Putnam	12,522	595	3,021	3,616	28.9%	93.2%	28	486
Raleigh	15,992	1,281	6,560	7,841	49.0%	91.7%	38	1,395
Randolph	5,971	505	2,306	2,811	47.1%	89.7%	48	653
Ritchie	2,234	151	815	966	43.2%	96.2%	9	81
Roane	3,266	284	1,599	1,883	57.6%	90.5%	44	336
Summers	2,322	232	1,107	1,339	57.7%	88.9%	50	315
Taylor	3,307	229	1,395	1,624	49.1%	90.9%	42	356
Tucker	1,354	181	437	618	45.6%	93.1%	30	103
Tyler	1,887	104	846	950	50.4%	94.9%	16	93

WV CHIP Enrollment Report

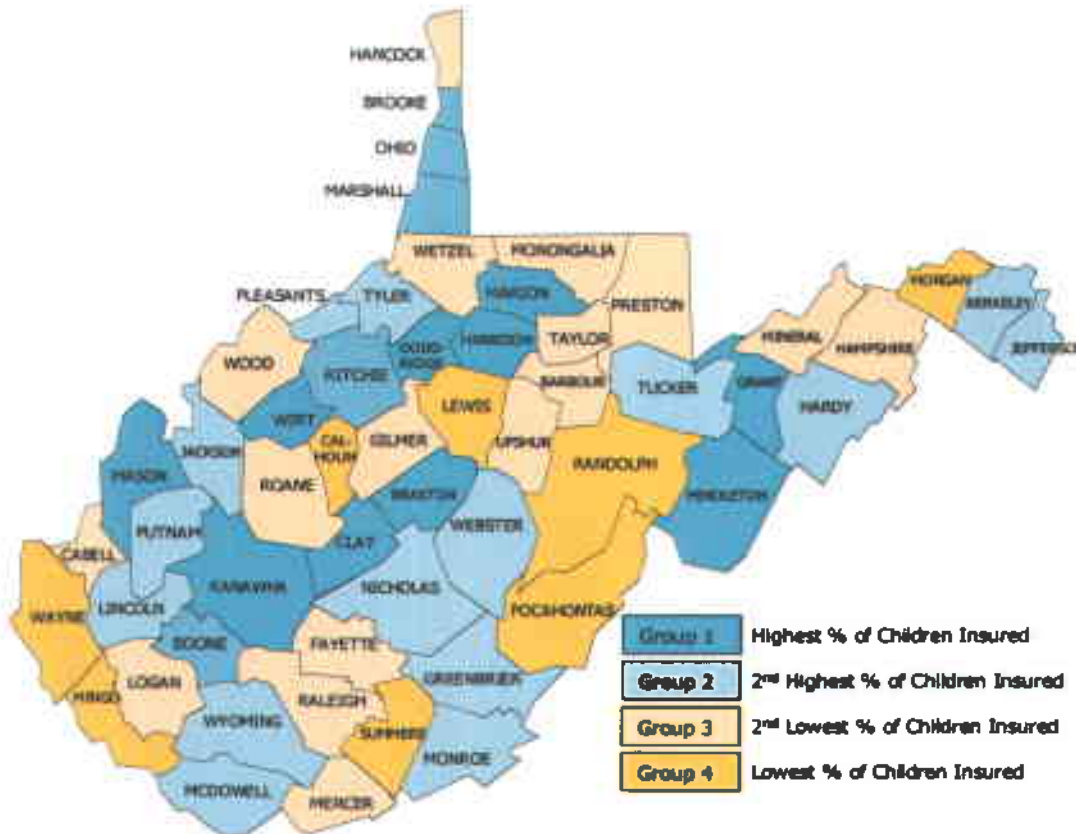
ATTACHMENT 1

December 2007

County Ranking	County Pop. 2005 Est. (0-18 Yrs)	Total CHIP Enrollment Dec-07	Total Medicaid Enrollment Nov-07	Total CHIP/Medicaid Enrollment	CHIP/Medicaid Enrollment % of Population	Total % Insured 3/2002*	# Children Insured Ranking*	Est # Uninsured Eligible*
Upshur	4,956	407	2,183	2,590	52.3%	90.4%	46	547
Wayne	9,176	569	3,973	4,542	49.5%	87.7%	55	1,034
Webster	2,020	186	1,063	1,249	61.8%	94.7%	18	103
Wetzel	3,732	219	1,595	1,814	48.6%	92.5%	35	334
Wirt	1,268	125	547	672	53.0%	96.3%	8	46
Wood	19,063	1,141	7,492	8,633	45.3%	90.5%	45	1,624
Wyoming	5,092	430	2,711	3,141	61.7%	94.0%	20	231
Totals	382,490	24,893	145,826	170,719	44.6%	93.4%		22,446

*Based on data from "Health Insurance in West Virginia: The Children's Report" – a survey by The Institute for Health Policy Research at the West Virginia University Robert C. Byrd Science Center

**There may be some uninsured eligible children in these counties, but according to the results of the survey sampling none were found.



Legislative Oversight Commission on
Health and Human Resources Accountability

January 2008

Department of Administration

State Children's Health Insurance Program
UPDATE



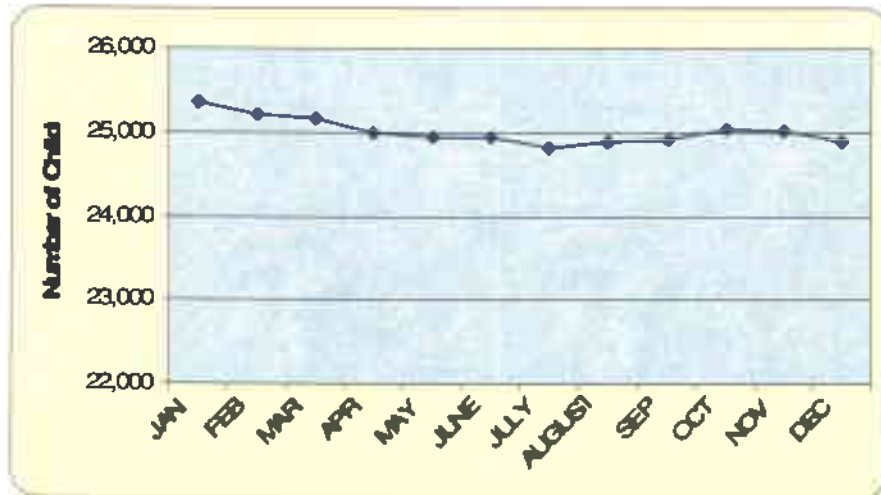
WV CHILDREN'S HEALTH INSURANCE AGENCY

REPORT FOR JANUARY 2008

I. Enrollment on December 28, 2007: 24,893

See Attachment 1 for enrollment by county.

Current 12-Month Enrollment Period: January 2007 through December 2007



Enrollee Totals: September 2007 to November 2007

Month	Total	1 Year	Total
September	1,778	Average	1,791
October	1,658	High	2,087
November	1,624	Low	1,494

New Enrollee (Never Before on CHIP) Totals: September 2007 to November 2007

Month	Total	1 Year	Total
September	812	Average	768
October	732	High	920
November	616	Low	616

II. Re-enrollment for 3 Month Period: September 2007 to November 2007

Total Forms Mailed		Enrolled within Notice Period		Reopened Cases After Closure		Final Closures	
Month	Total	#	%	#	%	#	%
September	1,936	1,093	56%	268	14%	575	30%
October	1,863	1,112	60%	223	12%	528	28%
November	1,568	905	58%	152	10%	511	33%

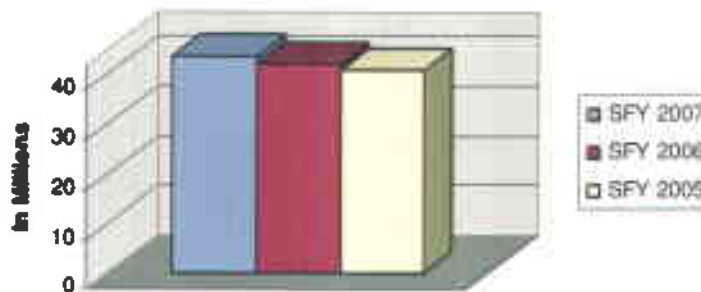
III. Financial Activity

Please see this month's financial statement at Attachment 2.

The average annualized claims cost per child for the month ended November 2007 was \$1,706.

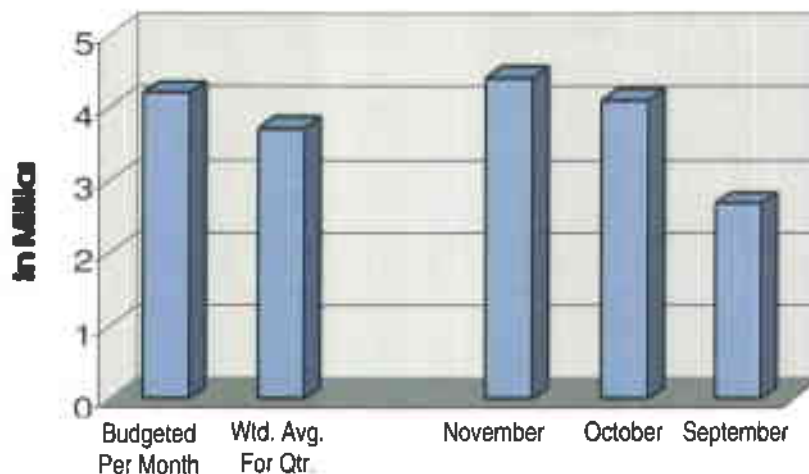
Annual Expenditures for a 3 Year Period: SFY 2005 – SFY 2007

	SFY 2007	FFP% 2007	SFY 2006	FFP% 2006	SFY 2005	FFP% 2005
Federal	35,472,537	80.97	34,247,276	81.09	33,767,136	82.26
State	8,336,944	19.03	7,986,385	18.91	7,235,862	17.74
Total Costs	43,809,481	100.00	42,233,661	100.00	41,002,998	100.00



Monthly Budgeted and Current 3 Month Period: September 2007 – November 2007

	Budgeted Per Month	Wtd. Avg. For Qtr.	Actual		
			November 2007	October 2007	September 2007
Federal	3,401,971	3,032,574	3,606,997	3,318,618	2,172,107
State	797,994	691,092	792,853	773,894	506,530
Total	4,199,965	3,723,666	4,399,850	4,092,512	2,678,637



IV. Other Highlights

FEDERAL FUNDING UPDATE

- Congress has passed legislation (later signed by the President) which extends sufficient funding for the State's Children's Health Insurance Program for an additional 15 months, or through March 2009.
- WVCHIP continues to project sufficient federal funding that would last through the end of the current federal fiscal year (September 2008).

WV CHIP Enrollment Report

ATTACHMENT 1

December 2007

County Ranking	County Pop 2005 Est. (0-18 Yrs)	Total CHIP Enrollment Dec-07	Total Medicaid Enrollment Nov-07	Total CHIP/Medicaid Enrollment	CHIP/Medicaid Enrollment % of Population	Total % Insured 3/2002*	# Children Insured Ranking*	Est. # Uninsured Eligible*
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Brooke	4,658	299	1,407	1,706	36.6%	98.5%	3	0**
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Calhoun	1,389	121	814	935	67.3%	88.0%	52	207
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Doddridge	1,607	118	697	815	50.7%	96.4%	6	60
Fayette	9,692	941	4,581	5,522	57.0%	92.1%	36	706
Gilmer	1,154	92	552	644	55.8%	92.8%	32	115
Grant	2,463	147	867	1,014	41.2%	95.8%	11	82
Greenbrier	7,110	596	2,614	3,210	45.1%	94.8%	17	306
Hampshire	5,110	272	1,762	2,034	39.8%	91.3%	40	295
Hancock	6,270	389	2,143	2,532	40.4%	92.9%	31	443
Hardy	2,950	146	942	1,088	36.9%	93.6%	26	200
Harrison	14,973	915	5,654	6,569	43.9%	99.9%	1	0**
Jackson	6,277	383	2,278	2,661	42.4%	93.9%	22	340
Jefferson	11,465	423	1,966	2,389	20.8%	93.9%	23	651
Kanawha	40,647	2,082	15,856	17,938	44.1%	96.4%	7	772
Lewis	3,577	298	1,751	2,049	57.3%	88.0%	53	431
Lincoln	4,945	407	2,419	2,826	57.2%	93.3%	27	327
Logan	7,610	546	3,777	4,323	56.8%	92.1%	37	654
Marion	11,245	795	4,113	4,908	43.6%	95.9%	10	516
Marshall	7,176	415	2,605	3,020	42.1%	97.5%	5	217
Mason	5,461	337	2,297	2,634	48.2%	95.7%	12	249
McDowell	5,170	430	3,290	3,720	72.0%	93.8%	25	373
Mercer	12,687	1,087	6,286	7,373	58.1%	91.0%	41	1,268
Mineral	5,973	295	1,892	2,187	36.6%	90.7%	43	251
Mingo	6,204	431	3,174	3,605	58.1%	88.5%	51	566
Monongalia	14,346	731	3,855	4,586	32.0%	92.6%	33	1,144
Monroe	2,728	268	883	1,151	42.2%	93.1%	29	196
Morgan	3,365	236	960	1,196	35.5%	89.2%	49	285
Nicholas	5,478	474	2,424	2,898	52.9%	94.4%	19	324
Ohio	9,068	524	2,958	3,482	38.4%	95.6%	14	480
Pendleton	1,632	110	376	486	29.8%	99.0%	2	19
Pleasants	1,593	101	470	571	35.8%	93.9%	24	88
Pocahontas	1,717	148	631	779	45.4%	87.7%	54	224
Preston	6,354	525	2,241	2,766	43.5%	90.2%	47	236
Putnam	12,522	595	3,021	3,616	28.9%	93.2%	28	486
Raleigh	15,992	1,281	6,560	7,841	49.0%	91.7%	38	1,395
Randolph	5,971	505	2,306	2,811	47.1%	89.7%	48	653
Ritchie	2,234	151	815	966	43.2%	96.2%	9	81
Roane	3,266	284	1,599	1,883	57.6%	90.5%	44	336
Summers	2,322	232	1,107	1,339	57.7%	88.9%	50	315
Taylor	3,307	229	1,395	1,624	49.1%	90.9%	42	356
Tucker	1,354	181	437	618	45.6%	93.1%	30	103
Tyler	1,887	104	846	950	50.4%	94.9%	16	93

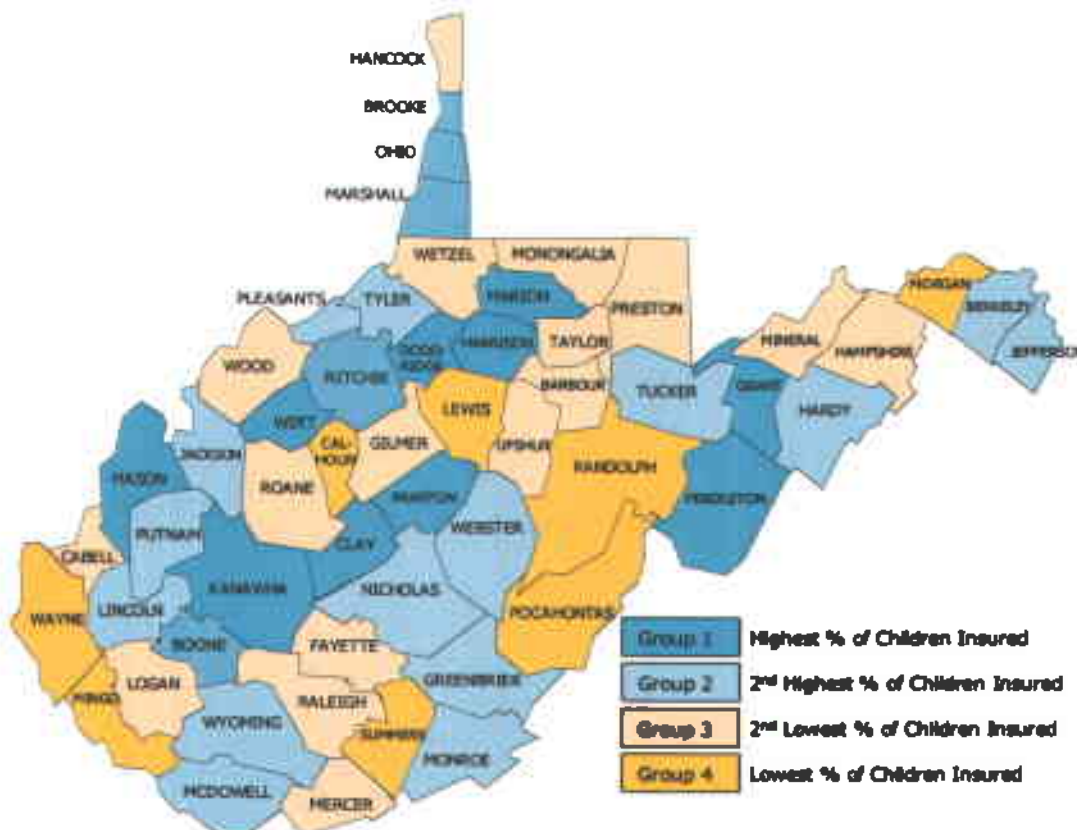
WV CHIP Enrollment Report

December 2007

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Wayne	9,176	569	3,973	4,542	49.5%	87.7%	55	1,034
Webster	2,020	186	1,063	1,249	61.8%	94.7%	18	103
Wetzel	3,732	219	1,595	1,814	48.6%	92.5%	35	334
Wirt	1,268	125	547	672	53.0%	96.3%	8	46
Wood	19,063	1,141	7,492	8,633	45.3%	90.5%	45	1,624
Wyoming	5,092	430	2,711	3,141	61.7%	94.0%	20	231
Totals	382,490	24,893	145,826	170,719	44.6%	93.4%		22,446

*Based on data from "Health Insurance in West Virginia: The Children's Report" – a survey by The Institute for Health Policy Research at the West Virginia University Robert C. Byrd Science Center

**There may be some uninsured eligible children in these counties, but according to the results of the survey sampling none were found.



West Virginia Children's Health Insurance Program
Comparative Statement of Revenues, Expenditures and Changes In Fund Balances
For the Five Months Ending November 30, 2007 and November 30, 2006
(Modified Accrual Basis)

	November 30, 2007	November 30, 2006	Variance	
Revenues:				
Federal Grants	15,429,020	14,063,041	1,365,979	10%
State Appropriations	4,606,978	4,606,015	963	0%
Premium Revenues	29,706	-	29,706	
Investment Earnings	<u>108,393</u>	<u>50,053</u>	<u>58,340</u>	117%
Total Operating Revenues	<u>20,174,097</u>	<u>18,719,109</u>	<u>1,454,988</u>	<u>8%</u>
Operating Expenditures:				
Claims:				
Outpatient Services	4,523,900	3,979,442	544,458	14%
Physicians & Surgical	3,664,869	3,447,164	217,705	6%
Prescribed Drugs	3,368,279	3,262,740	105,539	3%
Dental	2,181,372	2,018,406	162,966	8%
Inpatient Hospital Services	1,796,417	1,834,191	(37,774)	-2%
Vision	554,930	528,823	26,107	5%
Outpatient Mental Health	478,407	520,661	(42,254)	-8%
Inpatient Mental Health	222,458	381,405	(158,947)	-42%
Durable & Disposable Med. Equip.	178,729	172,168	6,561	4%
Therapy	177,263	145,756	31,507	22%
Medical Transportation	121,847	174,597	(52,750)	-30%
Other Services	34,751	56,014	(21,263)	-38%
Less: Collections*	<u>(361,543)</u>	<u>(320,281)</u>	<u>(41,262)</u>	13%
Total Claims	<u>16,941,679</u>	<u>16,201,086</u>	<u>740,593</u>	<u>5%</u>
General and Admin Expenses:				
Salaries and Benefits	210,602	188,147	22,455	12%
Program Administration	880,835	800,888	79,947	10%
Eligibility	130,232	127,270	2,962	2%
Outreach & Health Promotion	29,206	9,815	19,391	198%
Current	<u>51,279</u>	<u>36,370</u>	<u>14,909</u>	41%
Total Administrative	<u>1,302,154</u>	<u>1,162,490</u>	<u>139,664</u>	<u>12%</u>
Total Expenditures	<u>18,243,833</u>	<u>17,363,576</u>	<u>880,257</u>	<u>5%</u>
Excess of Revenues				
Over (Under) Expenditures	1,930,264	1,355,533	574,731	42%
Fund Equity, Beginning	<u>3,485,118</u>	<u>1,027,377</u>	<u>2,457,741</u>	<u>239%</u>
Fund Equity, Ending	<u>5,415,382</u>	<u>2,382,910</u>	<u>3,032,472</u>	<u>127%</u>

* Collections are primarily drug rebates and subrogation

* State Appropriations restated in prior year to actual draw deposited

PRELIMINARY FINANCIAL STATEMENTS

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
 Budget to Actual Statement
 State Fiscal Year 2008
 For the Five Months Ended November 30, 2007

	Budgeted for Year	Year to Date Budgeted Amt	Year to Date Actual Amt	Year to Date Variance*		Monthly Budgeted Amt	Nov-07	Oct-07	Sep-07
Projected Cost	\$49,020,492	\$20,425,205	\$17,157,784	\$3,267,421	16%	\$4,085,041	\$4,309,359	\$3,916,118	\$2,408,572
Premiums	136,290	56,788	29,706	\$27,082	-48%	11,358	7,042	7,565	5,453
Medical Copays	576,800	240,333	0	240,333	-100%	48,067			
Drug Copays	489,250	203,854	0	203,854	-100%	40,771			
Subrogation & Rebates	760,000	316,667	315,825	842	0%	63,333	44,029	45,718	55,366
Net Benefit Cost	47,058,152	\$19,607,563	\$16,826,860	\$2,780,703	14%	3,921,513	4,265,330	3,870,400	2,347,753
Salaries & Benefits	\$519,673	\$216,530	\$210,600	\$5,930	3%	\$43,306	\$40,673	\$40,538	\$40,243
Program Administration	2,166,796	902,832	766,942	135,889	15%	180,566	70,763	158,251	189,848
Eligibility	340,055	141,690	88,867	52,823	37%	28,338	845	683	80,693
Outreach	27,157	11,315	29,206	(17,890)	-158%	2,263	14,552	11,602	1,780
Current Expense	287,741	119,892	55,980	63,913	53%	23,978	7,687	11,038	18,320
Total Admin Cost	\$3,341,422	\$1,392,259	\$1,151,595	\$240,664	17%	\$278,452	\$134,520	\$222,112	\$330,884
Total Program Cost	\$50,399,574	\$20,999,823	\$17,978,455	\$3,021,368	14%	\$4,199,965	\$4,399,850	\$4,092,512	\$2,678,637
Federal Share 80.97%	40,823,855	\$17,009,856	\$14,854,311	2,355,545	14%	3,401,971	3,606,997	3,355,041	2,172,107
State Share 19.03%	9,575,919	\$3,989,966	\$3,324,144	665,822	17%	797,993	792,853	737,471	506,530
Total Program Cost *	\$50,399,574	\$20,999,823	\$17,978,455	\$3,021,368	14%	\$4,199,965	\$4,399,850	\$4,092,512	\$2,678,637

* Positive percentages indicate favorable variances
 ** Budgeted Year Based on CCRC Actuary 6/30/2007 Report.
 Please note: Medical and Drug Co-pay figures are incomplete.

Unaudited - Cash Basis For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
WVFIMS Fund 2154
For the Month Ended November 30, 2007
(Accrual Basis)

Investment Account

Funds Invested	\$6,177,697
Interest Earned	<u>108,393</u>
Total	<u>\$6,286,090</u>

Unaudited - For Management Purposes Only - Unaudited



West Virginia Children's Health Insurance Program
1018 Kanawha Boulevard East
Suite 209
Charleston, WV 25301
304-558-2732 voice / 304-558-2741 fax
Helpline 877-982-2447
www.wvchip.org

December 21, 2007

The Honorable Joe Manchin III
Office of the Governor
State of West Virginia
1900 Kanawha Boulevard East
State Capitol Building
Charleston, West Virginia 25305



**Subject: Submission of WVCHIP's
2007 Annual Report**

Dear Governor Manchin:

Pursuant to West Virginia State Code §5-16B-3, I am pleased to submit the 2007 Annual Report for the West Virginia Children's Health Insurance Program. This report satisfies financial and actuarial requirements set forth in State Code §5-16B-6. It also contains seven quality indicators with trend data for each measure.

On behalf of the Board, I extend our sincere appreciation to you and our Legislature for your support. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Sharon L. Carte".

Sharon L. Carte
Executive Director

cc: The Honorable Earl Ray Tomblin, President, State Senate
The Honorable Rick Thompson, Speaker, House of Delegates
WV Legislative Oversight Commission on Health & Human Resources Accountability
Robert W. Ferguson, Jr., Cabinet Secretary, Department of Administration
Aaron Allred, Legislative Services Manager
WV Children's Health Insurance Board Members



West Virginia Children's Health Insurance Program Annual Report 2007



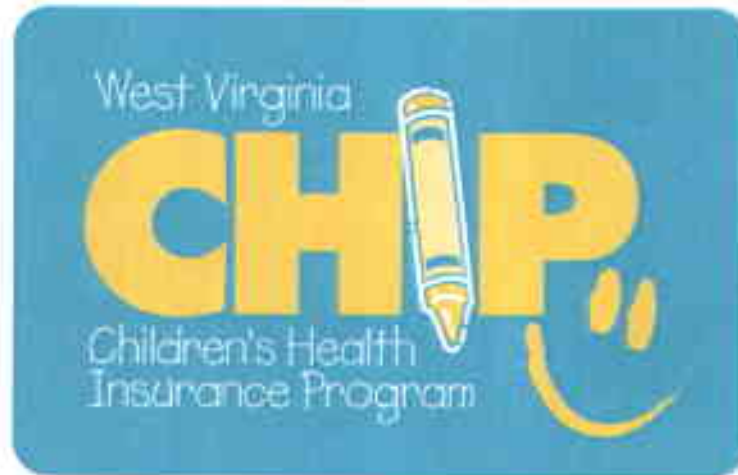
Because Healthy Children Can Grow To Full Potential

West Virginia Children's Health Insurance Program

2007 Annual Report



*Joe Manchin III,
Governor*



Joe Manchin III, Governor
State of West Virginia

Robert W. Ferguson, Jr., Cabinet Secretary
West Virginia Department of Administration

Sharon L. Carte, Executive Director
West Virginia Children's Health Insurance Program

Prepared by:
Stacey L. Shamblin, MHA
Financial Officer
West Virginia Children's Health Insurance Program



OUR MISSION

*To provide quality health insurance to eligible children
and to strive for a health care system in which all
West Virginia children have access to health care coverage.*

OUR VISION

All of West Virginia's children have access to health care coverage.

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INTRODUCTORY SECTION



*“We cherish belief in the children and
hope through them for the future.”*

*-Lillian Wald, Founder
Henry Street Settlement*



West Virginia Children's Health Insurance Program
1900 Kanawha Boulevard East
Building 3, Room 554
Charleston, WV 25305
304-558-2732 voice / 304-558-2741 fax
Helpline 877-982-2447
www.wvchip.org

December 14, 2007

Honorable Joe Manchin III, Governor
State of West Virginia

Honorable Members of the
West Virginia Legislature

Board of Directors
West Virginia Children's Health Insurance Program

Robert W. Ferguson, Jr., Cabinet Secretary
West Virginia Department of Administration

Sharon L. Carte, Executive Director
West Virginia Children's Health Insurance Program

Ladies and Gentlemen:

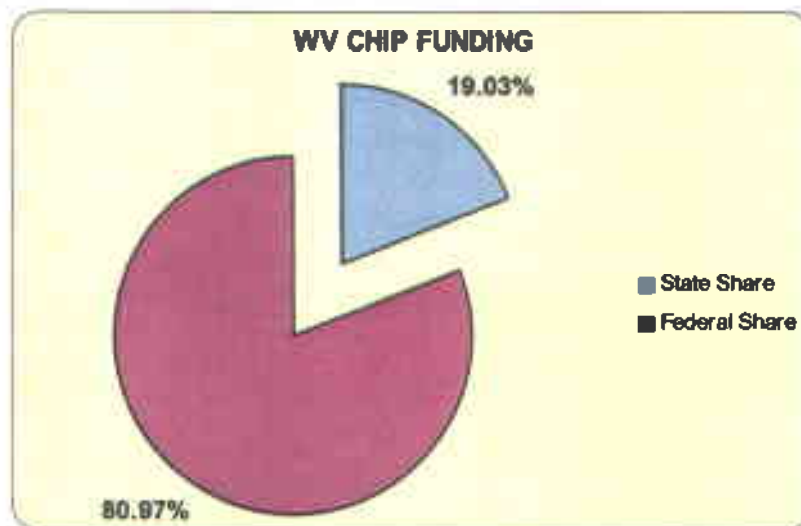
It is a privilege to submit to you the Annual Report of the West Virginia Children's Health Insurance Program (WVCHIP) for the fiscal year ended June 30, 2007. This report was prepared by the Financial Officer of WVCHIP. Responsibility for both the accuracy of the data presented and the completeness and fairness of the presentation, including all disclosures, rests with the management of WVCHIP. We believe the data, as presented, are accurate in all material respects and presented in a manner that fairly reports the financial position and results of operations of WVCHIP. All disclosures necessary to enable the reader to gain an understanding of WVCHIP's financial activities have been included. It should be noted that these financial reports are unaudited and for management purposes only.

This Annual Report is presented in three sections: introductory, financial and statistical. The introductory section contains this transmittal letter, a list of the principal officers of WVCHIP, and WVCHIP's organizational chart. The financial section includes the basic financial statements and footnotes as well as certain supplementary information as required by State Code. Also included in the financial section is management's discussion and analysis (MD&A) which provides the reader a narrative introduction, overview and further analysis of the financial information presented. The statistical section includes selected financial and statistical data.

The West Virginia Legislature passed House Bill 4299 on April 19, 1998, to create WVCHIP. Since its inception, it has undergone several changes that include the transfer of the Program from the WV Department of Health and Human Resources to the WV Department of Administration, Children's Health Insurance Agency with the passage of Senate Bill 565 in 2000. WVCHIP is governed by a Board of Directors of up to eleven members, through approval of an annual financial plan and modifications to benefits. Day-to-day operations of WVCHIP are managed by the Executive Director who is responsible for the implementation of policies and procedures established by the Board of Directors. The WV Children's Health Insurance Agency is responsible for the administration of the WVCHIP.

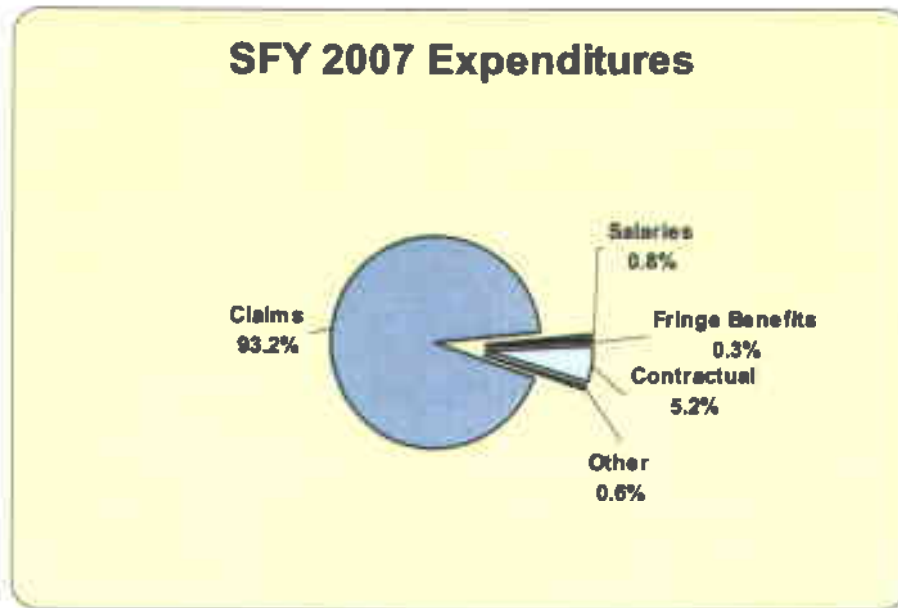
FINANCIAL PERFORMANCE AND OUTLOOK

WVCHIP is funded with both federal and state monies. Each year the program receives an allotment of federal money that may be used to fund program expenditures at a set percentage. Currently, federal allotments are available for a period of three years. State money is provided through general appropriations that are approved by both the Governor and the State Legislature. State money that is not used in the current year is carried-over to the next year. The match rates at June 30, 2007 were 80.97% federal share and 19.03% state share.



WV State Code requires that estimated program claims and administrative costs, including incurred but not reported claims, not exceed 90 percent of the total funding available to the program, and provides for an actuarial opinion to ensure that this requirement will be met. The Actuarial Report dated June 30, 2007, confirmed this requirement will be met through SFY 2013, assuming that state appropriations remain at the current level as SFY 2008, \$10,968,995, and considering projected enrollment and costs.

Based on estimated funding, enrollment, and costs, the June 30, 2007 Actuarial report projected federal funding shortfalls of \$781,000, \$22.1 million, \$26.4 million and \$31.0 million in state fiscal years (SFY) 2009, 2010, 2011 and 2012 respectively. No federal funding shortfalls are projected for SFY 2008. All projections assume federal allotments will remain at the same level as the 2007 allotment and that sufficient federal funding will be made available to the program under Continuing Resolutions of the Congress until the program is reauthorized at the federal level sometime within the next year.



REAUTHORIZATION

The Children's Health Insurance Program was scheduled to be reauthorized in 2007. While two bills reauthorizing the program have been passed by the Congress and have twice been vetoed by the President, on a national level, programs in each state will continue to operate under Continuing Resolutions passed by the Congress that provide monies to those programs showing deficits based on prorated 2007 allotment levels. While reauthorization continues to be an unknown for the program, management remains confident that the program will be allowed to continue with funding at levels sufficient enough to support the health needs of the nation's children, and those of West Virginia also.

INITIATIVES

WVCHIP embarked on a number of special projects this year. The most important included a program expansion of eligibility to 220% of the Federal Poverty Level (FPL), the establishment of medical homes for children, and a collaborative project with the Departments of Education and Health and Human Resources under an initiative referred to as *Kids First*. All initiatives are discussed in more detail in the Major Initiatives section of the Management's Discussion and Analysis found on page 21 of this report.

OTHER

Title XXI of the Social Security Act, enacted in 1997 by the Balanced Budget Act, authorized Federal grants to states for the provision of child health assistance to uninsured, low-income children. The Centers for Medicare and Medicaid Services (CMS) monitors the operation of WVCHIP. Financial statements are presented for the state fiscal year ended June 30, 2007. The federal fiscal year ends September 30 and further documentation is submitted to CMS based on that period. Certain statistical information such as HEDIS-type reports, by nature, is presented on a calendar year basis as required.

ACKNOWLEDGMENTS

Special thanks are extended to Governor Joe Manchin III and to members of the Legislature for their continued support. Gratitude is expressed to the members of WVCHIP's Board of Directors for their leadership and direction. Our most sincere appreciation is extended to Secretary Robert W. Ferguson, Jr., whose leadership and support has helped the Agency embrace new challenges this year. Finally, this report would not have been possible without the dedication and effort of WVCHIP's Executive Director, Sharon L. Carte. Respectfully, we submit this Annual Report for the West Virginia Children's Health Insurance Program for the year ended June 30, 2007.

Sincerely,



Stacey L. Shamblin, MHA
Financial Officer

PRINCIPAL OFFICIALS

Joe Manchin III, Governor
State of West Virginia

Robert W. Ferguson, Jr., Cabinet Secretary
West Virginia Department of Administration

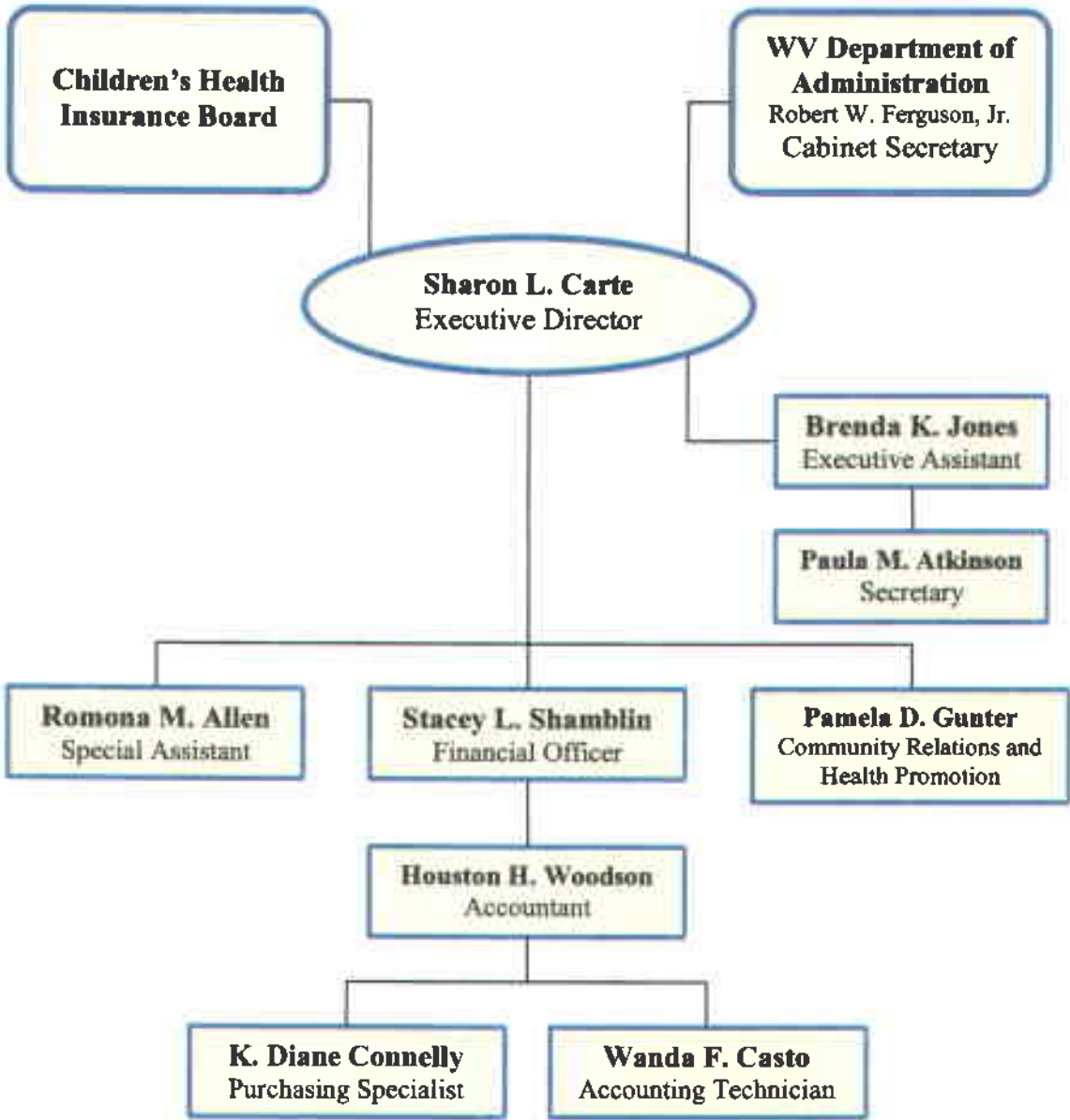
BOARD MEMBERS

Sharon L. Carte, Chair
Ted Cheatham, Public Employees Insurance Agency, Director
Martha Yeager Walker, Department of Health & Human Resources, Cabinet Secretary
The Honorable Roman Prezioso, West Virginia Senate, Ex-Officio
The Honorable Don Perdue, West Virginia House of Delegates, Ex-Officio
Lynn T. Gunnoe, Citizen Member
Margie Hale, Citizen Member
Travis Hill, Citizen Member
Larry Hudson, Citizen Member
Judith Radcliff, Citizen Member
Debra Sullivan, Citizen Member

STAFF

Sharon L. Carte, Executive Director
Romona M. Allen, Special Assistant
Paula M. Atkinson, Secretary
Wanda F. Casto, Accounting Technician
K. Diane Connelly, Purchasing Specialist
Pamela D. Gunter, Community Relations and Health Promotion
Brenda K. Jones, Executive Assistant
Stacey L. Shamblin, Financial Officer
Houston H. Woodson, Accountant

STAFF ORGANIZATIONAL CHART







FINANCIAL SECTION



“We have the ability to prevent or control many of the health care problems associated with common childhood conditions that can have a long term detrimental impact on children’s development and opportunities in life. This argues for access to well-child care for all children to identify problems early and manage chronic conditions effectively.”

*Committee on the Consequences of Uninsurance
Institute of Medicine of the National Academies
2002*

MANAGEMENT'S DISCUSSION AND ANALYSIS

WEST VIRGINIA CHILDREN'S HEALTH INSURANCE PROGRAM

For the Year Ended June 30, 2007

Management of the West Virginia Children's Health Insurance Program (WVCHIP) provides this Management Discussion and Analysis for readers of WVCHIP's financial statements. This narrative overview of the financial statements of WVCHIP is for the year ended June 30, 2007. We encourage readers to consider this information in conjunction with the additional information that is furnished in the footnotes which are found following the financial statements. Please note that these financial statements are unaudited and for management purposes only.

HISTORY AND BACKGROUND

WVCHIP's primary purpose is to provide health insurance coverage to uninsured children in families whose income disqualifies them from coverage available through the Medicaid Program, but is less than or equal to 220% of the current Federal Poverty Level (FPL). When Congress amended the Social Security Act in 1997 to create Title XXI "State Children's Health Insurance Program" (SCHIP), federal funding was allocated to the states for such programs over a ten year period. The West Virginia Legislature established the legal framework for this State's program in legislation enacted in April 1998.

Annually, Congress appropriates funds on a national level, and states receive their share of this total funding based on a complex allotment formula that considers the state's population of uninsured, low-income children. States use this annual Federal allotment to cover expenditures at a federal-matching percentage that is determined by the Centers for Medicare & Medicaid Services (CMS), the program's federal regulatory agency, and posted in the Federal Register.

To use Federal monies allotted for the SCHIP program, each state is required to file a state plan with CMS that outlines the individuals responsible for program administration, where the program is housed within State government, the program's enrollment policies, how it proposes to use the federal monies, as well as other policies and processes used by the state to administer the program. Once the state plan is approved, the state may use its federal allotment, at the federal matching percentage, to finance program expenditures according to the plan.

Since inception in 1998, WVCHIP has undergone several changes of its State Plan to reach its current form. These changes included:

- Phase I: In July 1998, the Program began as a Medicaid expansion by covering children from ages 1 to 5 in households with incomes from 131% FPL to 150% FPL.
- Phase II: On April 1, 2000, coverage for children from ages 6 through 18 in households from 100% to 150% FPL was added. WVCHIP also adopted PEIA's Preferred Benefit Plan to serve as the benchmark equivalent coverage for the program.

- In June 2000, WVCHIP notified the federal government that it was withdrawing the Medicaid expansion program and combining it with Phase II to create a separate state program.
- Phase III: In October 2000, WVCHIP expanded coverage to all children through age 18 in families with incomes between 151% and 200% FPL.
- In June 2002, WVCHIP modified its co-payment requirements for pharmacy benefits to eliminate or reduce co-payments for generic drugs and expand co-payment requirements for brand name drugs. It also adopted an annual benefit limit of \$200,000 and a lifetime benefit limit of \$1,000,000.
- In January 2006, WVCHIP modified its pharmacy benefit by implementing a Preferred Drug List which encouraged utilization of generic drugs and increased the amount of drug rebates received from drug manufacturers.
- In January 2007, WVCHIP expanded its upper income limit for program eligibility to 220%FPL. This expanded program from 201-220%FPL is called WVCHIP Premium. Families enrolled in this group are required to make monthly premium payments based on the number of children in the family enrolled in the program. Children in this group receive full medical and drug benefits, limited dental, and no vision coverage.

OVERVIEW OF THE FINANCIAL STATEMENTS

WVCHIP's financial statements have been prepared on a modified accrual basis of accounting in conformity with generally accepted accounting principles (GAAP) as prescribed or permitted by the Governmental Accounting Standards Board. As a governmental fund, WVCHIP is required to present two basic statements in this section as follows:

Balance Sheet: This statement reflects WVCHIP's assets, liabilities and fund balance. Assets equal liabilities plus fund balances. The major line item asset consists primarily of funds due from the federal government to cover WVCHIP's major liability, incurred claims.

Statement of Revenues, Expenditures and Changes in Fund Balances: This statement reflects WVCHIP's operating revenues and expenditures. The major source of revenue is federal grant awards while the major expenditure areas include medical, dental, and prescription drug claims costs.

In addition to these two basic statements and the accompanying notes; required supplementary information is presented in the Management Discussion and Analysis section and the Budget-to-Actual Statement presented for the year. The Budget-to-Actual Statement compares the program's actual expenditures to amounts budgeted for the state fiscal year and is located after the notes to the financial statements.

FINANCIAL HIGHLIGHTS

The following financial statements summarize the financial position and the results of operations for the years ended June 30, 2007 and 2006. (See pages 15 and 16.)

- Total assets increased approximately \$3,762,751, or 82% in comparison to the previous year-end amount. This increase is primarily a result of higher ending cash balances and reflects the Program's increased carry-over funding for the next year. Also, the Program was more aggressive with investments, and thus received higher interest payments in State Fiscal Year 2007.
- Total liabilities increased by approximately \$3,594,184 during the year. The majority of the increase is attributable to an increase in deferred revenues.
- Total fund balance increased approximately \$168,566 in comparison to the previous year end amount.
- Total operating revenues increased approximately \$4,210,123. The increase is attributable mainly to an increase in Federal Revenues. Federal Revenues are recognized when a related expense is paid based on the federal share of the expense. Also contributing to the increase was the addition of premium income (from the expansion to 220%FPL) and higher investment earnings.
- Medical, dental and prescription drug expenditures comprise approximately 93% of WVCHIP's total costs. These expenditures increased by approximately 10%, or \$3,956,938 over the prior year.
- Administrative costs accounted for 7% of overall expenditures. These expenditures increased approximately \$137,655, representing an increase of 5%. This increase reflects the Program's adoption of medical homes (see Major Initiatives on page 21), as well as other higher administrative costs.

FINANCIAL ANALYSIS

Costs

A total increase in medical, dental, and prescription drug claims payments of 10% is higher than the 8% increases in spending experienced by plans nationally. After adjusting for increased enrollment, a net increase of around 8% appears to be in line with national experience. Three factors affect total claims expenditures; enrollment, utilization of services, and fees paid to providers for services they render to WVCHIP members. Each of these factors contributed to the following increases in WVCHIP's claims costs:

- Enrollment: 1.9%
- Service Utilization: 5.3%
- Price/Fee Increases 3.1%

Note: These percentages are composites and not further broken down by service line item.

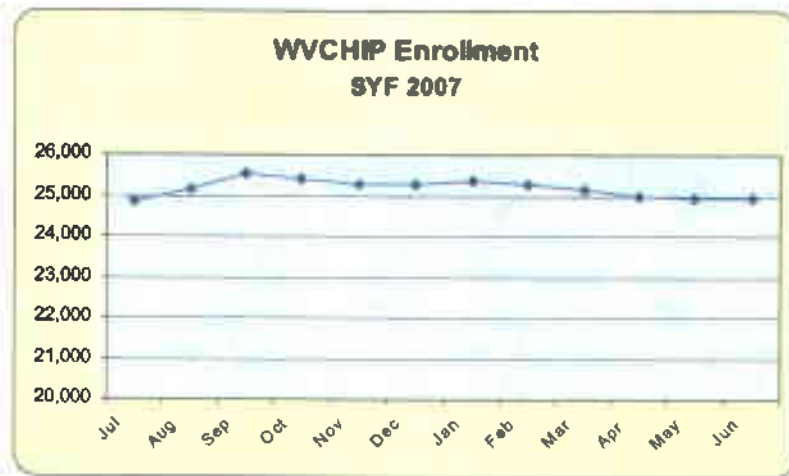
Enrollment

While monthly enrollment increased approximately 1.2% over the first nine months of the year, there was a slight decrease of 0.3% at year end. Overall, enrollment for the year increased 1.9% over that of last year.

WVCHIP has three enrollment groups, categorized by the differing levels of family financial participation (i.e. copayments and/or monthly premiums) based on family income levels as compared to the Federal Poverty Level (FPL). The following chart identifies these three groups, as well as enrollment increases in each:

<u>GROUP</u>	<u>FPL</u>	<u>AVG MONTHLY ENROLLMENT</u>	<u>PERCENT INCREASE</u>
CHIP (Phases I&II)	100% - 150%	15,966	1.3%
CHP3 (Phase III)	151% - 200%	9,193	2.9%
WVCHIP Premium	201% - 220%	49	* new group this year

WVCHIP Premium is a new enrollment group that is explained in detail under the Major Initiatives section on page 13. Initially, 12 children were enrolled in this group when it was "rolled-out" in February 2007. By June 2007, enrollment increased by 733% to 100 members. Enrollment in this group continues to grow and by the end of September 2007, 166 children were enrolled.



Utilization

It is easy to understand why a health plan would incur higher costs with increased enrollment: more members = payments for more services = increased costs. Increased payments due to service utilization changes, however, are caused by factors more dynamic than simply the number of members covered by the plan. Not only do changes in plan membership cause the plan to pay for more or less services, but other factors including provider practices and service guidelines; services mandated or recommended by either law or professional organizations; the benefit package and utilization management strategies adopted by the plan; as well as many more factors. A combination of these many factors contributed an additional 5.3% in claims expenditures for the year.

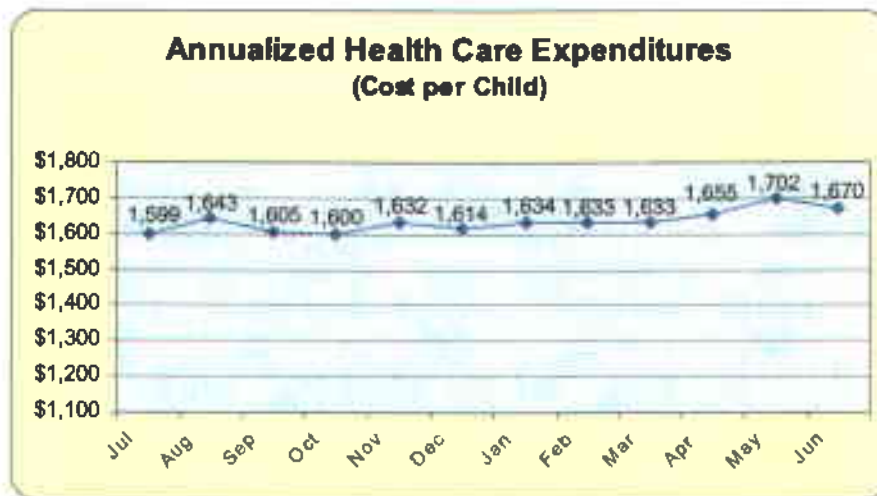
One factor contributing to increased service utilization is the amount of services utilized by new plan members, referred to as “pent-up” demand. Children new to the program may require more medical, dental, or prescription drug services within the first three-months of enrollment due to the fact they may have not been able to access these services prior to enrollment in the plan. This “pent-up” demand is illustrated in Table 13 on page 53.

Prices/Fees

The amount WVCHIP pays providers for particular services is also determined by a number of factors; fee schedules adopted by the plan or rates negotiated with providers, whether the service is provided in West Virginia or outside the state; and service availability, among others. A combination of all these factors contributed to price inflation. During State Fiscal Year 2007, price increases resulted in an additional 3.1% in total claims payments.

Average Cost Per Child

WVCHIP’s average cost per child for State Fiscal Year 2007 was \$1,670. This amount represents the average cost per child based on a “rolling enrollment” calculation and is not adjusted for the total unduplicated enrollment in the program for the year. This average increased 4.3% over the prior year and resulted from all factors discussed above. The fluctuation in the average cost per child is illustrated in the following table.



Administrative Costs

In addition to employee salaries, the plan pays a number of other costs to administer the plan. One of the largest areas of administrative costs are payments made to outside contractors for claims payments and benefits management services. The two largest contractors are Wells Fargo, Third-Party Administrators and Express Scripts, Incorporated. Wells Fargo processes medical and dental claims for the plan, as well as provides pre-certification and case management services. Express Scripts is the plan’s Pharmacy Benefits Manager. Also, administrative payments are made to the West Virginia Department of Health and Human Resources for eligibility determinations, West Virginia University’s Rational Drug Therapy Program that reviews prior authorization requests for drugs, and the program’s HelpLine established to assist families with questions and problems, among other payments necessary to administer the program. Administrative costs increased slightly by 5% over the prior year.

West Virginia Children's Health Insurance Program
Comparative Balance Sheet
June 30, 2007 and 2006
(Accrual Basis)

	June 30, 2007	June 30, 2006	Variance	
Assets:				
Cash and Cash Equivalents	\$4,977,366	\$ 876,406	\$4,100,960	468%
Due From Federal Government	2,650,397	3,082,902	(432,505)	-14%
Due From Other Funds	622,910	535,419	87,491	16%
Accrued Interest Receivable	20,640	3,640	17,000	467%
Fixed Assets, at Historical Cost	<u>64,933</u>	<u>75,128</u>	<u>(10,195)</u>	<u>-14%</u>
Total Assets	<u>\$8,336,246</u>	<u>\$4,573,495</u>	<u>\$3,762,751</u>	<u>82%</u>
Liabilities:				
Due To Other Funds	\$ 149,947	\$ 77,919	\$ 72,028	92%
Deferred Revenue	3,866,996	714,710	3,152,286	441%
Unpaid Insurance Claims Liability	<u>3,123,360</u>	<u>2,753,490</u>	<u>369,870</u>	<u>13%</u>
Total Liabilities	<u>\$7,140,303</u>	<u>\$3,546,119</u>	<u>\$3,594,184</u>	<u>101%</u>
Fund Equity	<u>\$1,195,943</u>	<u>\$1,027,377</u>	<u>\$ 168,566</u>	<u>16%</u>
Total Liabilities and Fund Equity	<u>\$8,336,246</u>	<u>\$4,573,496</u>	<u>\$3,762,750</u>	<u>82%</u>

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
Comparative Statement of Revenues, Expenditures and Changes in Fund Balances
For the Twelve Months Ended June 30, 2007 and June 30, 2006
(Modified Accrual Basis)

	June 30, 2007	June 30, 2006	Variance	
Revenues:				
Federal Grants	\$35,758,528	\$31,878,421	\$3,880,107	12%
State Appropriations	9,273,848	9,070,795	203,053	2%
Premium Revenues	11,433	0	11,433	
Investment Earnings	<u>168,566</u>	<u>53,036</u>	<u>115,530</u>	<u>218%</u>
Total Operating Revenues	<u>\$45,212,375</u>	<u>\$41,002,252</u>	<u>\$4,210,123</u>	<u>10%</u>
Operating Expenditures:				
Claims:				
Outpatient Services	\$10,446,632	\$ 9,986,991	\$ 459,641	5%
Physician and Surgical	9,403,916	8,722,688	681,228	8%
Prescribed Drugs	8,521,422	7,849,298	672,124	9%
Dental	4,987,934	4,787,135	200,799	4%
Inpatient Hospital	4,491,611	2,757,505	1,734,106	63%
Outpatient Mental Health	1,545,992	1,572,472	(26,480)	-2%
Vision	1,250,098	1,229,655	20,443	2%
Inpatient Mental Hospital	883,943	659,722	224,221	34%
Durable & Disposable Equipment	484,416	352,985	131,431	37%
Medical Transportation	359,938	225,684	134,254	59%
Therapy	348,681	307,361	41,320	13%
Other	131,155	102,292	28,863	28%
Less Collections*	<u>(786,868)</u>	<u>(441,856)</u>	<u>(345,012)</u>	<u>78%</u>
Total Claims	<u>42,068,870</u>	<u>38,111,932</u>	<u>3,956,938</u>	<u>10%</u>
General and Admin Expenses:				
Salaries and Benefits	462,360	455,119	7,241	2%
Program Administration	1,925,168	1,883,219	41,949	2%
Eligibility	304,118	296,682	7,436	3%
Outreach & Health Promotion	174,161	94,183	79,978	85%
Current	<u>109,132</u>	<u>108,081</u>	<u>1,051</u>	<u>1%</u>
Total Administrative	<u>2,974,939</u>	<u>2,837,284</u>	<u>137,655</u>	<u>5%</u>
Total Expenditures	<u>45,043,809</u>	<u>40,949,216</u>	<u>4,094,593</u>	<u>10%</u>
Excess of Revenues Over (Under) Expenditures	168,566	53,036	115,530	218%
Fund Equity, Beginning	<u>1,027,377</u>	<u>974,341</u>	<u>53,036</u>	<u>5%</u>
Fund Equity, Ending	<u>\$ 1,195,943</u>	<u>\$ 1,027,377</u>	<u>\$ 168,566</u>	<u>16%</u>

* Collections are primarily drug rebates and subrogation

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
Notes to Financial Statements
For the Twelve Months Ended June 30, 2007

Note 1**Summary of Significant Accounting Policies****Basis of Presentation**

The accompanying general purpose financial statements of the West Virginia Children's Health Insurance Program (WVCHIP) conform to generally accepted accounting principles (GAAP) for governments. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for governmental accounting and financial reporting.

Financial Reporting Entity

The West Virginia Children's Health Insurance Program (WVCHIP) expands access to health services for eligible children. Major revenue sources are federal awards and state appropriations. WVCHIP uses third party administrators to process claims, pay providers, and review utilization of health services. An eleven-member board develops plans for health insurance specific to the needs of children and annual financial plans which promote fiscal stability.

Basis of Accounting

WVCHIP follows the modified accrual basis of accounting. Revenues are recognized when they become both measurable and available. Significant revenues subject to accrual are federal awards. Expenditures are recognized when a related liability is incurred.

Assets and LiabilitiesCash and Cash Equivalents

Cash equivalents principally consist of amounts on deposit in the State Treasurer's Office (STO) that are pooled funds managed by the West Virginia Board of Treasury Investments (BTI). In addition, WVCHIP makes interest-earning deposits in certain investment pools maintained by BTI that are available to WVCHIP with overnight notice. Interest income from these investments is prorated to WVCHIP at rates specified by BTI based on the balance of WVCHIP's deposits maintained in relation to the total deposits of all state agencies participating in the pool. The carrying value of the deposits reflected in the financial statements approximates fair value. WVCHIP also had an outside bank account which it utilized to make provider payments. Cash deposits in the outside bank account are considered to be cash and cash equivalents and are generally carried at fair value. Use of the outside bank account to process provider payments was discontinued in March 2005 and the account closed in October 2005. All cash is now on deposit in the State Treasury.

Deferred Revenue

Receipts to reimburse for program expenditures to be incurred in the future periods are classified as deferred revenue.

Insurance Claims Payable

The liability for unpaid claims is based on an estimate of claims incurred but not yet reported as of the balance sheet date. Offsetting amounts receivable for the federal and state share of these expenditures have been recorded.

Note 2

Cash and Investments

At June 30, 2007, information concerning the amount of deposits with financial institutions, including deposits, of the State Treasurer's Office is as follows:

	Carrying Amount	Bank Balance	Collateralized Amount
Cash			
Deposits with Treasurer	\$ 1,061,706	—	—
Investments			
	Amount Unrestricted	Fair Value	Investments Pool
Investment with Investment Management Board	<u>\$3,915,660</u>	\$3,915,660	Cash Liquidity
Total	<u>\$4,977,366</u>		

Reconciliation of cash and cash equivalents and investments as reported in the financial statements to the amounts disclosed in the footnote:

Deposits		
Cash and Cash equivalents as reported		\$4,977,366
Less: investments disclosed as cash equivalents		<u>(3,915,660)</u>
Carrying amount of deposits as disclosed in this footnote		<u>\$1,061,706</u>
Investments		
Investments as Reported		-----
Add: investments disclosed as cash equivalents		<u>\$3,915,660</u>
Carrying value of investments as disclosed in this footnote		<u>\$4,977,366</u>

Note 3**Due to other funds:**

Public Employees Insurance Agency Piggyback Contracts	\$ 95,899
DHHR & WVOT (Eligibility)	39,098
Helpline	6,935
Other	<u>8,015</u>
Total due to other funds	<u>\$149,947</u>

Note 4**Risk Management
Unpaid Claims Liabilities**

Claims payable, beginning of year	\$ 2,753,490
Incurred claims expense	42,073,849
Payments:	
Claim payments for current year	34,170,010
Claim payments for prior year	<u>6,581,324</u>
Claims payable, year to date	<u>\$ 3,123,360</u>

Note 5**Contingencies**

WVCHIP receives significant financial assistance from the U.S. Government in the form of grants and other federal financial assistance. Entitlement to those resources is generally contingent upon compliance with the terms and conditions of the grant agreements and applicable federal regulations, including the expenditure of the resources for allowable purposes. Federal financial assistance awards are subject to financial and compliance audits under either the federal Single Audit Act or by grantor agencies of the federal government or their designees. Any obligations that may arise from cost disallowance or sanctions as a result of those audits are not expected to be material to the financial statements of WVCHIP.

**West Virginia Children's Health Insurance Program
Budget to Actual Statement
State Fiscal Year 2007
For the Twelve Months Ended June 30, 2007**

	Budgeted for Year	Year to Date Budgeted Amt	Year to Date Actual Amt	Year to Date Variance*		Monthly Budgeted Amt	Jun-07	May-07	Apr-07
Projected Cost	\$44,518,706	\$44,518,706	\$41,601,386	\$2,917,320	7%	\$3,709,892	\$3,429,914	\$4,373,597	\$3,513,199
Premiums	\$0	\$0	\$11,433	\$0	n/a	\$0	\$3,977	\$2,949	\$2,184
Unclaimed Property Returned	\$0	\$0	\$13,039	\$0		\$0	\$5,727	\$2,427	\$0
Subrogation & Rebates	<u>\$300,000</u>	<u>\$300,000</u>	<u>\$786,868</u>	<u>(\$453,385)</u>	151%	<u>\$25,000</u>	<u>\$60,891</u>	<u>\$120,967</u>	<u>\$42,641</u>
Net Benefit Cost	\$43,183,706	\$43,183,706	\$40,709,142	\$2,347,138	5%	\$3,598,642	\$3,359,318	\$4,247,255	\$3,468,374
Salaries & Benefits	\$600,000	\$600,000	\$462,361	\$137,639	23%	\$50,000	\$39,293	\$39,908	\$39,339
Program Administration	\$1,951,762	\$1,951,762	\$1,927,831	\$23,931	1%	\$162,647	\$166,666	\$257,212	\$177,960
Eligibility	\$324,000	\$324,000	\$302,552	\$21,448	7%	\$27,000	\$76,485	\$3,160	\$5,160
Outreach	<u>\$100,000</u>	<u>\$100,000</u>	<u>\$24,162</u>	<u>\$75,838</u>	76%	<u>\$8,333</u>	<u>\$4,437</u>	<u>\$4,565</u>	<u>\$1,381</u>
Current Expense	\$169,480	<u>\$169,480</u>	<u>\$256,007</u>	<u>(\$86,527)</u>	-51%	<u>\$14,123</u>	<u>\$159,681</u>	<u>\$11,475</u>	<u>\$11,511</u>
Total Admin Cost	\$3,145,242	\$3,145,242	\$2,972,913	\$172,329	5%	\$262,104	\$448,562	\$316,320	\$235,351
Total Program Cost	<u>\$46,328,948</u>	<u>\$46,328,948</u>	<u>\$43,809,481</u>	<u>\$2,519,467</u>	5%	<u>\$3,860,746</u>	<u>\$3,815,584</u>	<u>\$4,645,777</u>	<u>\$3,705,909</u>
Federal Share 80.97%	\$37,526,448	\$37,526,448	\$35,484,556	\$2,041,891	5%	\$3,127,204	\$3,089,478	\$3,761,686	\$3,000,674
State Share 19.03%	<u>\$8,802,500</u>	<u>\$8,802,500</u>	<u>\$8,324,925</u>	<u>\$477,575</u>	5%	<u>\$733,542</u>	<u>\$726,106</u>	<u>\$884,091</u>	<u>\$705,234</u>
Total Program Cost **	<u>\$46,328,948</u>	<u>\$46,328,948</u>	<u>\$43,809,481</u>	<u>\$2,519,467</u>	5%	<u>\$3,860,746</u>	<u>\$3,815,584</u>	<u>\$4,645,777</u>	<u>\$3,705,909</u>

* Positive percentages indicate favorable variances

** Budgeted Year Based on CCRC Actuary 6/30/2006 Report.

Please note: Medical and Drug Co-pay figures are incomplete

Unaudited - Cash Basis For Management Purposes Only - Unaudited

MAJOR INITIATIVES.

WVCHIP Premium

During the 2006 Legislative session, House Bill 4021 passed authorizing WVCHIP to adopt a higher income limit of 300% for program eligibility. In implementing this legislation, the Board adopted premium payments for those children with family incomes above 200%FPL. The Bill also extended the “waiting period” for children to be uninsured, from the six-month requirement for the regular WVCHIP program, to twelve months for children eligible under the expanded program. After much deliberation, the Board, at the request of the Governor, adopted a higher income limit of 220%, with planned annual expansions in 20% increments, until the full 300% limit is adopted. On January 1, 2007, WVCHIP implemented the higher income limit for program eligibility of 220%FPL. This expanded program was named WVCHIP Premium. In addition, the Board approved a full medical and drug benefit package, with higher co-payments, a limited dental package, and no vision coverage.

In order to implement this expansion, WVCHIP had to revise the enrollment process that is used for the regular program. Under the regular program, eligibility and enrollment are determined by the Department of Health and Human Resources’ county offices. This was changed under the expanded program slightly. Under WVCHIP Premium, eligibility for the expanded program is determined in the DHHR county offices, but enrollment is implemented and approved by WVCHIP. This change was made to accommodate limitations within the DHHR eligibility and enrollment systems.

Upon notification from DHHR that a family is eligible for WVCHIP Premium, a letter from WVCHIP is sent to the family outlining program requirements. The letter is addressed to the guardian and lists the children that are eligible for enrollment, along with the required monthly premium payment. In order to enroll, the first month’s premium must be received, as well as a signed self-declaration statement that the children have not had health insurance for the previous twelve months. Enrollment begins on the first of the month after the premium is received.

Under the expansion, WVCHIP had to establish a premium collection and reporting process, along with the enrollment policies and procedures. It also had to assure that its Third-Party Administrators (TPAs), Wells Fargo, Third-Party Administrators and Express-Scripts, Inc., had claims processing systems ready to account for the different benefits package under the expanded program. Also, new enrollment cards were designed for members of WVCHIP Premium.

Medical Homes

Following the Public Employees’ Insurance Agency’s lead, WVCHIP adopted a voluntary medical home program for its members on March 1, 2007. Under this program, members agree to utilize one physician for all their primary care needs selected from a directory of qualified physicians specializing mostly in pediatric or family medicine. In exchange, co-payments for all visits to a member’s designated medical home are waived. Providers receive full payment for services from WVCHIP. No formal referral process to specialists or other care outside the medical home is required by providers.

Kids First

Governor Manchin charged an interdepartmental team with working on a goal of assuring that every child starts school healthy and ready to learn. In an initiative called *Kids First*, the strategy to reach this goal is to assure that every child has had an opportunity for a comprehensive wellness exam by a physician prior to entering Kindergarten. WVCHIP played a key part in this strategy this year by seeking approval of a State Plan change that would permit the program to reimburse providers rendering wellness exams to uninsured children as a special public health or preventive measure. Since West Virginia now has health coverage in a public or private form for 95% of its children, federal approval would mean that the remaining 5% with no insurance (or about 1,100 children of Kindergarten age) could also receive such a wellness exam. This project will go forward in 2008 pending federal approval.

CONTACTING WVCHIP's MANAGEMENT

This report is designed to provide our enrollees, citizens, governing officials and legislators with a general overview of WVCHIP's finances and operations. If you have questions about this report or need additional information, please contact WVCHIP's Financial Officer at 304-558-2732. General information can also be obtained through our website at <http://www.wvchip.org>. Electronic application to the program is available on the web at www.wvinroads.org.



REQUIRED SUPPLEMENTARY INFORMATION



“The Chamber recognizes that oral health is an integral part of personal health and effective prevention solutions are a good investment in the health of West Virginia, particularly for the children of the state.”

*“Policy Solutions for Positive Growth in West Virginia”
2008 Policy Recommendations
West Virginia Chamber of Commerce*

West Virginia Children's Health Insurance Program Report of Independent Actuary June 30, 2007 Quarterly Report

OVERVIEW

CCRC Actuaries, LLC ("CCRC Actuaries") was engaged by the West Virginia Children's Health Insurance Program ("CHIP Program") to assist the West Virginia CHIP Board in the analysis of actual and projected plan experience in the current State Fiscal Year 2007 ("FY 2007") through Fiscal Year 2014 ("FY 2014"). West Virginia enabling legislation of the CHIP Program requires that an actuary provide a written opinion that all estimated program and administrative costs of the agency under the plan, including incurred but unreported claims, will not exceed 90 percent of the funding available to the program for the fiscal year for which the plan is proposed.

CHIP Program management requested CCRC Actuaries to produce the Baseline Scenario which includes the CHIP Premium expansion to 220% of the Federal Poverty Level ("FPL") and West Virginia Governor's recommended FY 2007 State funding of \$10,968,995. In addition, CHIP Program management requested two Alternative Scenarios: A proposed expansion schedule to 250% FPL and a proposed expansion schedule to 300% FPL, with assumed monthly enrollment eligibility starts in January 2008. Under all scenarios, family premiums are assumed to cover 20% of the policy cost for the 200% to 250% FPL group and 25% of the policy cost for the 250% to 300% FPL group.

Under the submitted West Virginia CHIP Premium expansion plan ("CHIP Premium"), the CHIP expansion began enrollment effective in January 2007. Under this Baseline Scenario, family premiums are assumed to cover 20% of the policy cost for the 220% FPL. The initial monthly premiums will be \$35 for families with one child in the program and \$71 for families with more than one child in the program. For the purposes of this Baseline Scenario, we have assumed that the initial premium will be unchanged through June 2008.

The assumed benefit structure for CHIP Premium enrollees includes the following major components:

- ◆ Medical Copayments: \$20 Office Visits
 \$25 Inpatient & Outpatient Visits
 \$35 Emergency Room Visits
- ◆ Prescription Drugs Copayments: \$0 Generic
 \$15 Brand
- ◆ Dental Benefits are limited to \$150 Preventative services only
- ◆ No Vision services are covered

Under the Baseline Scenario, the projected cost of the CHIP Program in FY 2007 met the 90% funding requirement and we have assumed the same State funding in FY 2007 for the projected future years as shown in Appendix A.

Based on the Baseline Scenario and the 90% expenditure limitation on State funding of the program, we are not projecting a shortfall in State funding based on funding levels provided by CHIP management through FY 2012. We have assumed the same State funding of \$10,968,995 in FY 2007 in future years. Note that we are currently projecting the Federal funding shortfall of approximately \$781,000 in FY 2009, \$22,089,000 in FY 2010, \$26,375,000 in FY 2011, \$31,037,000 in FY 2012, \$36,112,000 in FY 2013 and \$41,631,000 in FY 2014 in the Baseline Scenario. Federal reauthorization of the CHIP Program could significantly change future funding.

It should be noted that this projection reflects the current information on the availability of Federal funding. We have not assumed the FY 2003 Redistribution in this projection. West Virginia was one of 28 states that received the FY 2002 Redistribution funding. West Virginia CHIP utilized the FY 2002 Redistribution total of \$3,895,443 in Federal funding in the fiscal year 2006. The Federal share of program expenditure is currently 80.97% for Federal Fiscal Year 2007. The Federal share of program expenditure is assumed to be 81.98% for Federal Fiscal Year 2008 and future years.

Enrollment for the program as of June 2007 has slightly decreased in recent months. The current program enrollment as of June 2007 consists of 24,939 children total: 15,658 children as part of Phase I and Phase II that consists of children whose families are below 150% of the federal poverty level, 9,181 children as part of Phase III that consists of children whose families are between 150% and 200% of the federal poverty level, and 100 children as part of CHIP Premium. Phase III children are required to make co-payments as part of the benefit structure of the program. Since the March 31, 2007 Quarterly Report, overall enrollment has decreased by 219 children, while Phase I and Phase II had decreased enrollment of 317 children, Phase III had increased enrollment of 19 children and CHIP Premium had increased enrollment of 79 children.

The monitoring and analysis of claim trends is critical to the accurate forecast of future costs of the program. While the program's enrollment continues to escalate, there has been some moderation of cost trends. Current claim trend experience has been financially favorable over the past several years and we have reduced the FY 2007 Prescription Drugs claim trend to 12%. We have maintained the Medical claim trend to 8% and Dental claim trend to 7% assumed in the March 31, 2007 Quarterly Report, based on trend experience consistent with the assumption.

Administrative expenses were \$2,965,912 in FY 2007. West Virginia CHIP management team assumes a 5% administrative expense trend will be appropriate for FY 2008 and subsequent years. It should be noted that West Virginia CHIP management project to spend an additional \$147,000 in FY 2008 on a health initiative for kindergarten screenings.

Drug Rebates were \$621,756 in FY 2007. West Virginia CHIP management team assumes a 4% increase in drug rebates will be appropriate for FY 2008 and subsequent years.

Under the State fiscal year basis, we are now projecting that incurred claim costs under the Baseline Scenario assumptions for FY 2007 will be \$42,298,220. The updated projection for FY 2008 claims is \$47,699,524.

PLAN ENROLLMENT

We have updated our projection based on the enrollment through June 2007. Phase II enrollment has been decreasing in recent months. The program had enrollment at the end of FY 2006 of 24,835 children, with 15,907 under Phase II and 8,928 under Phase III. Current enrollment as of June 2007 is 24,939 children, with 15,658 under Phase II, 9,181 under Phase III, and 100 under CHIP Premium.

The following table summarizes the FY 2005 to FY 2007 enrollment information using end of month enrollment information by Phase II, Phase III, CHIP Premium and in total:

<u>Date</u>	<u>Phase II</u>	<u>Phase III</u>	<u>CHIP Premium</u>	<u>Total</u>	<u>Annual % Growth</u>
Jul-04	15,149	8,479	---	23,628	7.5%
Aug-04	15,290	8,550	---	23,840	7.2%
Sep-04	15,437	8,598	---	24,035	5.5%
Oct-04	15,371	8,615	---	23,986	5.9%
Nov-04	15,433	8,666	---	24,099	5.9%
Dec-04	15,582	8,701	---	24,283	6.4%
Jan-05	15,547	8,682	---	24,229	6.3%
Feb-05	15,585	8,719	---	24,304	6.5%
Mar-05	15,526	8,941	---	24,467	5.7%
Apr-05	15,493	8,907	---	24,400	4.6%
May-05	15,575	8,965	---	24,540	5.3%
Jun-05	15,571	8,944	---	24,515	4.6%
July-05	15,612	8,961	---	24,573	4.0%
Aug-05	15,793	8,898	---	24,691	3.6%
Sep-05	15,792	8,857	---	24,649	2.6%
Oct-05	15,831	8,917	---	24,748	3.2%
Nov-05	15,624	8,983	---	24,607	2.1%
Dec-05	15,656	9,000	---	24,656	1.5%
Jan-06	15,509	9,109	---	24,618	1.6%
Feb-06	15,755	8,899	---	24,654	1.4%
Mar-06	15,916	8,905	---	24,821	1.4%
Apr-06	15,813	8,830	---	24,643	1.0%
May-06	15,934	8,933	---	24,867	1.3%
Jun-06	15,907	8,928	---	24,835	1.3%
July-06	15,867	8,993	---	24,860	1.2%
Aug-06	16,006	9,163	---	25,169	1.9%
Sep-06	16,207	9,312	---	25,519	3.5%
Oct-06	16,083	9,300	---	25,383	2.6%
Nov-06	15,986	9,284	---	25,270	2.7%
Dec-06	16,027	9,246	---	25,273	2.5%
Jan-07	16,153	9,205	---	25,358	3.0%
Feb-07	16,075	9,195	12	25,282	2.5%
Mar-07	15,975	9,162	21	25,158	1.4%
Apr-07	15,829	9,120	42	24,991	1.4%
May-07	15,728	9,155	68	24,951	0.3%
Jun-07	15,658	9,181	100	24,939	0.4%

The tables below summarize the current enrollment projection assumptions for Baseline Scenario and two Alternative Scenarios, by Phase II & III, and CHIP Premium.

Baseline Scenario (220% FPL)

<u>Ending Enrollment</u>	<u>FY2007</u>	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>
Phase II & III	24,839	24,839	24,839	24,839	24,839
CHIP Premium	<u>100</u>	<u>549</u>	<u>796</u>	<u>885</u>	<u>900</u>
Total	24,939	25,388	25,635	25,724	25,739

Alternative Scenario 1 (250% FPL)

<u>Ending Enrollment</u>	<u>FY2007</u>	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>
Phase II & III	24,839	24,839	24,839	24,839	24,839
CHIP Premium	<u>100</u>	<u>902</u>	<u>1,651</u>	<u>1,967</u>	<u>2,072</u>
Total	24,939	25,741	26,490	26,806	26,911

Alternative Scenario 1 (300% FPL)

<u>Ending Enrollment</u>	<u>FY2007</u>	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>	<u>FY2011</u>
Phase II & III	24,839	24,839	24,839	24,839	24,839
CHIP Premium	<u>100</u>	<u>1,406</u>	<u>2,870</u>	<u>3,510</u>	<u>3,745</u>
Total	24,939	26,245	27,709	28,349	28,584

CLAIM COST AND TREND ANALYSIS

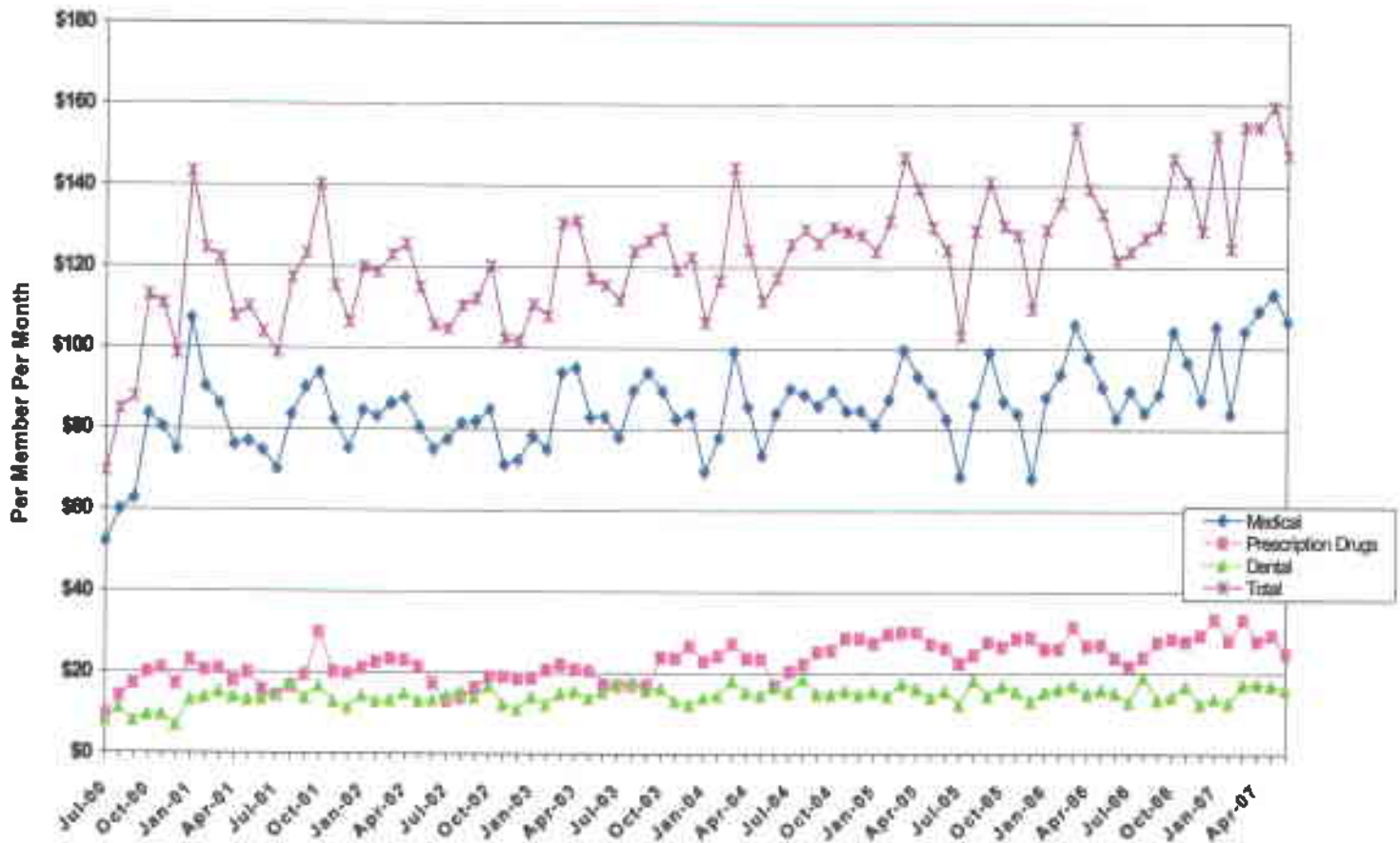
We have continued to utilize the trend assumptions from the March 31, 2007 Quarterly Report. These trends are 8% for Medical claims, 7% for Dental claims, and 12% for Prescription Drugs claims. Historical claim trend analysis for Medical, Dental and Prescription Drugs are summarized in the Attachment found at the end of the report as requested at our last Board Meeting.

Overall, the most recent experience remains favorable compared to our trend assumptions. It is noteworthy to comment that most recently, Medical trend rates have exceeded the 8% trend assumption due to higher than expected hospitalizations. As we review trends over different time periods, the 12 months analysis reflects lower overall trend than the 6 months and 9 months analysis. The table below summarizes WV CHIP experience over the last 6 months, 9 months and 12 months as of June 30, 2007. Overall trend experience has been favorable, with a composite trend of 8.8% over the last 12 months. Note that Prescription Drugs trends are before consideration of drugs rebates.

<u>Trend Period</u>	<u>6 Months</u>	<u>9 Months</u>	<u>12 Months</u>
Medical	11.5%	14.2%	11.6%
Dental	-0.5%	-1.7%	-1.1%
Prescription Drugs	<u>10.1%</u>	<u>7.4%</u>	<u>5.3%</u>
Composite	9.9%	10.9%	8.8%

The following chart summarizes incurred claims on a per member per month (“PMPM”) basis for the major categories of Medical, Dental and Prescription Drugs based on information received through June 2007. The attachment at the end of this report shows the trends for Phase II and Phase III and an average for the same three categories.

West Virginia CHIP - Monthly Cost



Detailed claim trends for Medical, Dental and Prescription Drugs are summarized in the Attachment found at the end of the report. The trends for each of the three categories are relatively flat over the seven years period.

FINANCIAL PROJECTION – STATE FISCAL YEARS 2007-2014

Under the Baseline Scenario with the prescription drugs formulary changes effective beginning January 2006 and West Virginia Governor’s recommended FY 2007 State funding of \$10,968,995, the updated incurred claims for FY 2007 is projected to be \$42,919,976 based on expected enrollment of 25,179 children and projected incurred claim per member per month cost data assumption of \$142.05, as summarized in the following table.

<u>Category</u>	<u>Current Report FY2007 Baseline Incurred Claims</u>	<u>Current Report FY2007 Baseline Per Member Per Month</u>	<u>3/31/07 Report FY2007 Baseline Per Member Per Month</u>	<u>12/31/06 Report FY2007 Baseline Per Member Per Month</u>
Medical	\$29,773,790	\$98.54	\$93.57	\$95.31
Prescription Drugs	8,526,264	28.22	27.47	27.99
Dental	<u>4,619,922</u>	<u>15.29</u>	<u>15.53</u>	<u>16.02</u>
Total	\$42,919,976	\$142.05	\$136.58	\$139.32

The Baseline Scenario financial forecast for the Federal and State fiscal years 2007 through 2014 can be found in Appendix A. Based on the Baseline Scenario, we are not projecting a shortfall in State funding under the 90% funding requirement based on funding levels provided by CHIP management through FY 2012; and projecting that the Program will need additional Federal funding beginning in FY 2010.

Appendix A, B and C show the Baseline Scenario and two Alternative Scenarios with a seven-year projection period as requested by CHIP management. The first section of the report is the beginning balances of both Federal and State funding sources. The middle section of the report projects and reports on incurred claim, paid claim and administrative expenses, as well as expected Interest earnings and accrued prescription drugs rebates. This section also projects Federal and State shares of paid expenses, as well as incurred but not received ("IBNR") claim liabilities. The last section of the report projects the ending balances of both Federal and State funding sources.

Based on the assumptions developed under Baseline Scenario, we are not projecting a shortfall in State funding under the 90% funding requirement based on funding levels provided by CHIP management through FY 2012; and projecting a shortfall in Federal funding of approximately \$781,000 in FY 2009, \$22,089,000 in FY 2010, \$26,375,000 in FY 2011, \$31,037,000 in FY 2012, \$36,112,000 in FY 2013 and \$41,631,000 in FY 2014.

It should be noted that the Federal Government has not provided projections of expected Federal funding in the final years of the projection and these estimates are subject to change. We have not assumed the FY 2003 Redistribution in this projection. West Virginia was one of 28 states that received the FY 2002 Redistribution funding. West Virginia CHIP utilized the FY 2002 Redistribution total of \$3,895,443 in Federal funding in fiscal year 2006.

Appendix D summarizes the original and restated IBNR claim liabilities for the CHIP Program in Fiscal Year 2005 to 2007. IBNR projections have been recently higher to reflect current claim experience as illustrated.

STATEMENT OF ACTUARIAL OPINION

I, Dave Bond, Managing Partner of CCRC Actuaries, LLC hereby certify that I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the actuarial qualification standards to render Statements of Actuarial Opinion for Children Health Insurance Program and other self-insured entities. I have been retained by CHIP to render a Statement of Actuarial Opinion regarding the methods and underlying assumptions developed and used in this analysis.

This Statement of Actuarial Opinion was prepared in a manner consistent with the Code of Professional Conduct and Qualification Standards of the American Academy of Actuaries, and the Standards of Practice of the Actuarial Standards Board. Concerning the projection of health care expenses, I am of the opinion that the data and assumptions used are appropriate.

In my opinion, all estimated program and administrative costs of the agency under the plan, including incurred but unreported claims, will not exceed 90 percent of the funding available to the program for the future fiscal years 2007 through 2012 based on current enrollment under the Baseline Scenario.

It should be noted that this opinion is based on State funding levels as illustrated in Appendix A and FY 2007 through FY 2014 have not been appropriated by the West Virginia Legislature.



Dave Bond
Fellow of the Society of Actuaries
Member of the American Academy of Actuaries
Managing Partner
CCRC Actuaries, LLC
Reisterstown, Maryland
July 25, 2007



Brad Paulis
Reviewing Partner
CCRC Actuaries, LLC
Reisterstown, Maryland
July 25, 2007

APPENDIX A (Baseline Scenario - 220% IPL)

West Virginia Children's Health Insurance Program
June 30, 2007 Quarterly Report

Available Funding - Beginning of the Year	2007	2008	2009	2010	2011	2012	2013	2014
Federal 2006	\$17,171,386	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal 2006	23,349,395	3,870,413	0	0	0	0	0	0
Federal 2007	27,516,914	27,516,914	0	0	0	0	0	0
Federal 2008	0	27,516,914	17,216,121	0	0	0	0	0
Federal 2009	0	0	27,516,914	0	0	0	0	0
Federal 2010	0	0	0	27,516,914	0	0	0	0
Federal 2011	0	0	0	0	27,516,914	0	0	0
Federal 2012	0	0	0	0	0	27,516,914	0	0
Federal 2013	0	0	0	0	0	0	27,516,914	0
Federal 2014	0	0	0	0	0	0	0	27,516,914
State Funding 2005	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
State Funding 2006	876,406	0	0	0	0	0	0	0
State Funding 2007	10,968,995	3,231,637	0	0	0	0	0	0
State Funding 2008	0	10,968,995	5,037,178	0	0	0	0	0
State Funding 2009	0	0	10,968,995	6,001,667	0	0	0	0
State Funding 2010	0	0	0	10,968,995	6,066,808	0	0	0
State Funding 2011	0	0	0	0	10,968,995	5,189,891	0	0
State Funding 2012	0	0	0	0	0	10,968,995	3,288,129	0
State Funding 2013	0	0	0	0	0	0	10,968,995	270,855
State Funding 2014	0	0	0	0	0	0	0	10,968,995
Program Costs	2007	2008	2009	2010	2011	2012	2013	2014
Medical Expenses	\$29,773,790	\$33,289,982	\$35,953,181	\$38,829,435	\$41,935,790	\$45,290,653	\$48,913,905	\$52,827,018
Prescription Drug Expenses	8,526,264	9,458,236	10,593,225	11,864,411	13,288,141	14,882,718	16,668,644	18,668,881
Dental Expenses	4,619,922	4,896,118	5,238,846	5,605,565	5,997,955	6,417,811	6,867,058	7,347,752
Administrative Expenses	2,965,912	3,268,558	3,277,636	3,441,518	3,613,594	3,794,274	3,983,988	4,183,187
Expansion Scenarios								
Medical Expenses	\$0	\$476,694	\$933,053	\$1,206,403	\$1,340,096	\$1,459,264	\$1,585,934	\$1,712,809
Prescription Drugs Expenses	0	142,998	290,261	389,195	448,338	506,290	570,615	639,089
Dental Expenses	0	82,122	159,252	203,999	224,512	242,210	260,798	279,054
Administrative Expenses	0	72,864	142,432	185,197	207,223	227,409	249,147	261,604
Premiums (Expansion)	\$0	\$189,372	\$396,492	\$516,600	\$590,700	\$639,324	\$698,112	\$753,961
Program Revenues - Interest	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Program Revenues - Drug Rebates	621,756	646,626	672,491	699,391	727,367	756,462	786,720	818,189
Net Incurred Program Costs	\$45,264,132	\$50,851,574	\$55,518,902	\$60,509,733	\$65,737,581	\$71,424,843	\$77,615,258	\$84,347,244
Net Paid Program Costs	43,802,481	50,399,574	55,122,902	60,077,733	65,266,581	70,910,843	77,054,258	83,735,244
Federal Share	\$36,650,368	\$41,688,120	\$45,514,396	\$49,605,879	\$53,891,669	\$58,554,087	\$63,628,888	\$69,147,871
State Share of Expenses	8,613,764	9,163,454	10,004,506	10,903,854	11,845,912	12,870,757	13,986,269	15,199,373
Beginning IBNR	\$2,648,349	\$4,110,000	\$4,562,000	\$4,958,000	\$5,390,000	\$5,861,000	\$6,375,000	\$6,936,000
Ending IBNR	4,110,000	4,562,000	4,958,000	5,390,000	5,861,000	6,375,000	6,936,000	7,548,000

APPENDIX A (Baseline Scenario - 220% FPI.)

West Virginia Children's Health Insurance Program
June 30, 2006 Quarterly Report

Funding Sources - End of the Year	2007	2008	2009	2010	2011	2012	2013	2014
Federal 2005	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Federal 2006	3,870,413	0	0	0	0	0	0	0
Federal 2007	27,516,914	0	0	0	0	0	0	0
Federal 2008	0	17,216,121	0	0	0	0	0	0
Federal 2009	0	0	0	0	0	0	0	0
Federal 2010	0	0	0	0	0	0	0	0
Federal 2011	0	0	0	0	0	0	0	0
Federal 2012	0	0	0	0	0	0	0	0
Federal 2013	0	0	0	0	0	0	0	0
Federal 2014	0	0	0	0	0	0	0	0
Federal Shortfall	\$0	\$0	\$781,361	\$22,088,968	\$26,374,755	\$31,037,173	\$36,112,074	\$41,630,957
State Funding 2005	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
State Funding 2006	0	0	0	0	0	0	0	0
State Funding 2007	3,231,637	0	0	0	0	0	0	0
State Funding 2008	0	5,037,178	0	0	0	0	0	0
State Funding 2009	0	0	6,001,667	0	0	0	0	0
State Funding 2010	0	0	0	6,066,808	0	0	0	0
State Funding 2011	0	0	0	0	5,189,891	0	0	0
State Funding 2012	0	0	0	0	0	3,288,129	0	0
State Funding 2013	0	0	0	0	0	0	270,855	0
State Funding 2014	0	0	0	0	0	0	0	0
State Shortfall	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,959,523
State Shortfall - 90% Funding Requirement	\$0	\$0	\$0	\$0	\$0	\$0	\$1,283,175	\$8,931,518



415 Main Street
Reisterstown, MD 21136

Phone: 410-833-4220
Fax: 410-833-4229

Email: info@ccrcactuaries.com

December 14, 2007

Ms. Sharon Carte
Director
West Virginia Children's Health Insurance Program
State Capitol Complex, Building 3, Room 554
Charleston, WV 25305

**Subject: West Virginia Children's Health Insurance Program –
Review of Experience**

Dear Sharon:

CCRC Actuaries, LLC was engaged by the management of West Virginia Children's Health Insurance Program ("CHIP Program") to assist the West Virginia CHIP Board in the analysis of actual and projected plan experience and review the claim experience through November 2007. We conclude that the plan will continue to meet the statutory requirement of 10% reserve in FY 2008 based on the updated information.

It is noteworthy that we are not projecting a shortfall in State funding based on funding levels provided by CHIP management. After the September 30, 2007 Quarterly Report was issued in October 2007, several changes have occurred in the program:

- The status of future Federal funding of the CHIP Program remains uncertain;
- Enrollment for the CHIP Program as of November 2007 was at one of the highest levels since its inception. Overall enrollment for the CHIP Program as of November 2007 was 25,021;
- November 2007 claim experience showed the projected incurred FY 2008 expenditure to be \$46,180,305, a slight decrease of \$210,633 from \$ 46,390,938 in the September 30, 2007 Quarterly Report.

- The categories of FY 2008 medical, dental and prescription drug expenses in the current claim experience through November 2007 showed slight improvement over the September 30, 2007 Quarterly Report.
- Overall current PMPM cost for Fiscal Year 2008 is now projected to be \$152.72, down from the projected \$153.94 PMPM cost in the September 30, 2007 Quarterly Report. Medical PMPM for Fiscal Year 2008 is now projected to be \$105.90, slightly up from the projected \$105.55 PMPM cost in the September 30, 2007 Quarterly Report. Dental PMPM for Fiscal Year 2008 is now projected to be \$15.75, down from the projected \$17.60 PMPM cost in the September 30, 2007 Quarterly Report. Prescription Drugs PMPM for Fiscal Year 2008 is now projected to be \$31.07, slightly up from the projected \$30.78 PMPM cost in the September 30, 2007 Quarterly Report.

The management of the CHIP Program provided the medical, dental and prescription drugs claim lag data, along with the program enrollment. I had reviewed the recent projections based on the gradually increasing enrollment and utilized our trend assumptions with the claim lag data. Actuarial methods, considerations and analyses relied on in forming my opinion conforms to the appropriate standard of practice as promulgated by the Actuarial Standards Board.

Please review this information and if you have any questions or comments about this letter, please feel free to call me at (410) 833-4220.

Sincerely,



Dave Bond, F.S.A., M.A.A.A.
Managing Partner

PROGRAM OUTREACH AND HEALTH AWARENESS

A Continuing Community Partnership

This year WVCHIP has worked with many types of community partners and entities as identified in its State Plan, however, as enrollment has stabilized the focus has evolved toward health awareness and prevention campaigns, such as childhood health screening, immunizations, and the importance of a medical home.

A Targeted Approach

Based on survey data from "Health Insurance in West Virginia," WVCHIP continues to prioritize outreach efforts to fifteen (15) counties (shown on page 40) of the State with either higher numbers or percentages of uninsured children. The impact of these efforts can be seen in the Statistical Section in Tables 9 and 10 (shown on Page 50 and 51).

Public Information via the Call Center, Website, and WVInRoads

WVCHIP continues to make application and program information available through its toll-free Call Center, which averages about 2,000 calls a month, and through its website at www.wvchip.org. An online electronic application process that allows people to apply from the convenience of home and print out their own applications continues to be made available by the WVDHHR Rapids Project at www.wvinroads.org. The WVCHIP website provides a wealth of information to the public about the agency, its governance, applying and enrolling, benefits, major annual reports, program statistics, and much more.

Child Development Education Projects

"Brain Under Construction" Zone

WVCHIP initiated a partnership with the United Way of the River Cities to replicate Cabell County's Brain Under Construction Zone program in the Mid-Ohio Valley Region. In 2007, a steering committee began working on a systematic approach to implement the project in 2008. The intervention program promotes the belief that parents' behavior toward their child makes a difference in short and long term developmental outcomes, thus taking advantage of everyday moments as teachable learning opportunities. The importance of the *Brain Under Construction Zone* project will help foster a child's readiness for school and improve parent and child interaction.

Linking Child Development with Primary Care

WVCHIP worked as part of a statewide advisory team on the West Virginia Primary Care Association's *Linking Child Development in Primary Care and Community Health Project*. Strategies for child development education and standardized development screenings in primary care were identified for a three county pilot project. Goals of the project include:

- Educate health care providers and ancillary staff on child development.
- Review and improve developmental screening to identify children at risk for behavioral, social, emotional, and developmental problems.
- Educate parents of young children on their developmental needs – physical, social, emotional, behavioral, and cognitive.
- Identify and organize resources in the community to support parents of young children.

A Faith-Based Emphasis

The faith community plays a vital role in supporting families and nurturing the development of children, by integrating faith, access to care, and health of the whole person. Health ministries, parish nurse programs, congregations, and other faith-based organizations are getting actively involved in tending directly to the health concerns of their members and the large community. Faith organizations that sponsor community-based programs such as child care centers, food pantries, and summer camps are becoming more attentive to the insistent problems children face.

For this reason, WVCHIP supports the faith community in its efforts to educate and support families in obtaining health care coverage and promoting healthy lifestyles. WVCHIP does this by making its program and application information available to the West Virginia Council of Churches, a major partner in the West Virginia Healthy Kids and Families Coalition. WVCHIP revises its church bulletin flyer annually and makes it available to all congregations in West Virginia.

Health Intervention and Prevention Initiative

In 2004, WVCHIP began working with several State agencies and community health programs as a way to refocus WVCHIP's outreach efforts as a leader in health prevention and promoting a healthy lifestyle. Collaborations are important to allow multiple agencies and entities inside and outside state government to integrate efforts related to a statewide mission for the health of West Virginia's children. WVCHIP prioritizes prevention efforts to support our State's Healthy People 2010 objectives for children.

Health Intervention and Prevention Initiative (continued)

The following projects were implemented in fiscal year 2007:

- WVCHIP continued partnership efforts to promote healthy lifestyles with the West Virginia Immunization Network, Action for Healthy Kids Coalition, West Virginia Asthma Coalition, and the Medical Advisory Council.
- In 2006-07, WVCHIP continued partnership with DHHR's Office of Infant, Child and Adolescent Health to promote full periodic and comprehensive well child visits recommended by pediatricians in a "HealthCheck" Campaign. Health messages focusing on vision, dental, development, and hearing screenings appeared in *Child Care Provider Quarterly Magazine*. Through this partnership, WVCHIP identified the "HealthCheck" form as the standard form providers use in all well-child exam visits.
- The West Virginia Immunization Network and the State's Immunization Program and WVCHIP continue working on strategies to implement an immunization campaign targeting adolescents. WVCHIP provided matching funds to Raleigh County to implement the "Take Your Best Shot" adolescent campaign, which began in October 2007.
- WVCHIP provided flyers and ABC's of Baby Care to include in Day One Packets for distribution to all new mothers at participating West Virginia hospitals.
- WVCHIP materials were included in the State's Immunization Program packets to new mothers through the Right from the Start Coordinators.

Games For Health

The West Virginia Games for Health project is a broad based collaborative project, which utilizes the interactive video game Dance Dance Revolution (DDR) as a physical activity intervention with children and youth. In 2007, WVCHIP financially contributed \$150,000 to the project to complete implementation of DDR in all high schools and a portion of the elementary schools in West Virginia. This contribution added on to a program already underway through contributions from the Public Employees Insurance Agency. All participating schools are provided a full set of equipment, lesson plan strategies, and extracurricular models with a full day's training. DDR is used with Physical Education curriculum, in before school and after school activities, and in DDR clubs. WVCHIP participates in a state-wide advisory team for establishing goals and monitoring progress of the project.

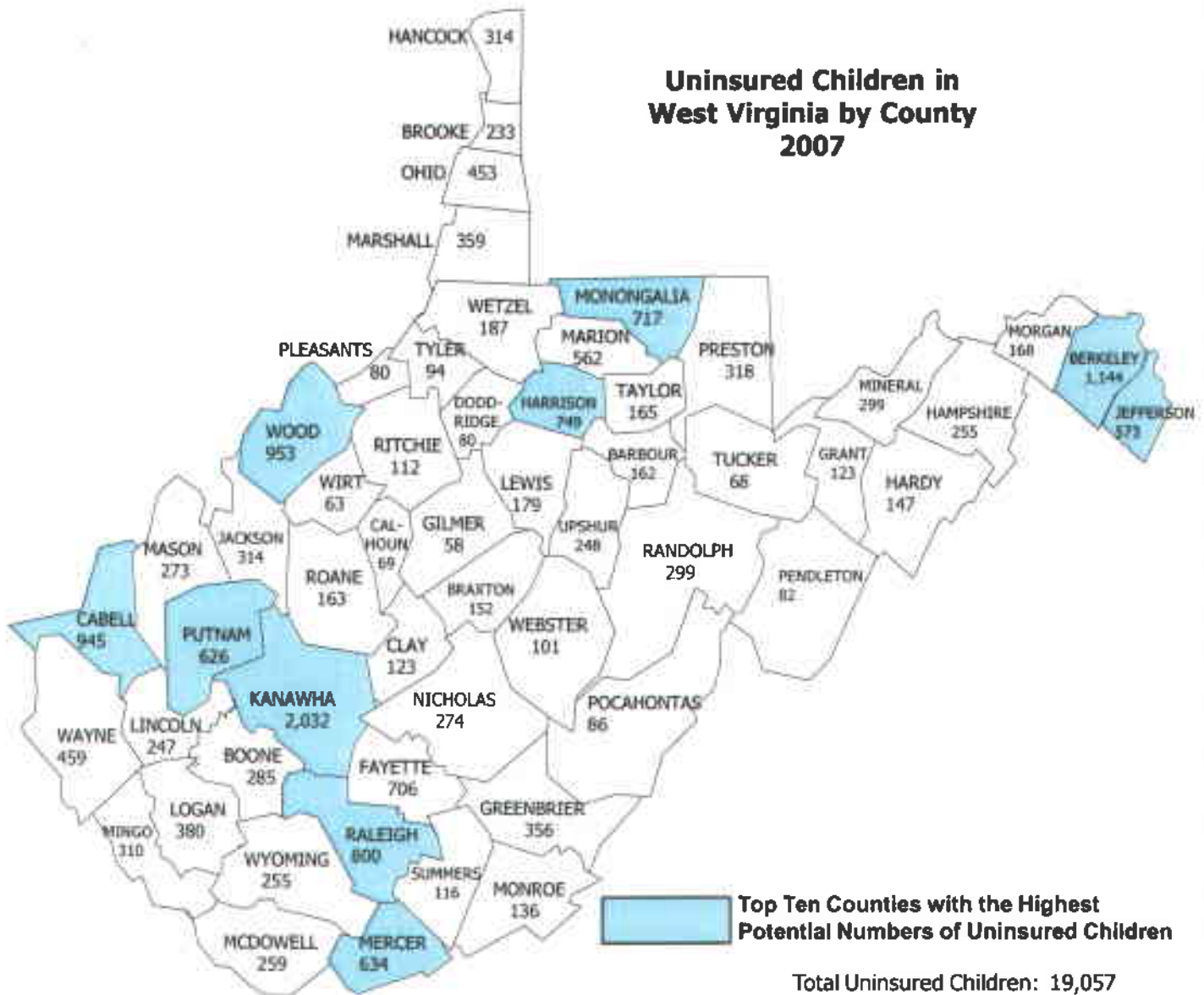
Asthma Management

In 2006, WVCHIP analyzed the number of enrollees in the program with asthma by county. This allowed the agency to identify six counties for a pilot project: Cabell, Wayne, Lincoln, Kanawha, Fayette, and Raleigh, in which there were 125 members ages 5 - 18. Components of the program were:

- To improve evidence based care delivery to children with asthma, thus reducing asthma related Emergency Department/Urgent Care visits, admissions, acute office visits, and school days could be impacted;
- Improve effectiveness and efficiency of care related to asthma with a partnership between providers, school nurses, and parents; and
- Improve the use of asthma action plans as part of the care standard.

After conducting both a parent survey of the enrollees in the target counties and a successful asthma workshop for school nurses and primary care physicians, the agency, however, was unable to secure sufficient primary care partnerships to proceed further with the project. Nonetheless, the agency continues to have a strong interest in asthma and remains active with the WV Asthma Coalition on how to improve quality of care.

TARGETED OUTREACH FOR UNINSURED CHILDREN



The five percent uninsured total number is an estimate from the US Census Current Population Survey. This data is based on three year rolling averages. While it is a valid estimate for statewide purposes, the five percent extrapolation to the county level could vary significantly from county to county depending on the availability of employee sponsored insurance. However, it remains our best gross estimate of the remaining uninsured children.







STATISTICAL SECTION



“.....all our nation’s children, deserve the attention, the encouragement, and the intervention of health professionals from many disciplines to ensure that they develop the healthy bodies, minds, emotions, and attitudes to prepare them to be competent and contributing adults.”

*-Morris Green, MD
Bright Futures Guidelines, 1994
American Academy of Pediatrics*

All statistics are for the fiscal year ended June 30, 2007, unless noted otherwise.

TABLE 1: ENROLLMENT

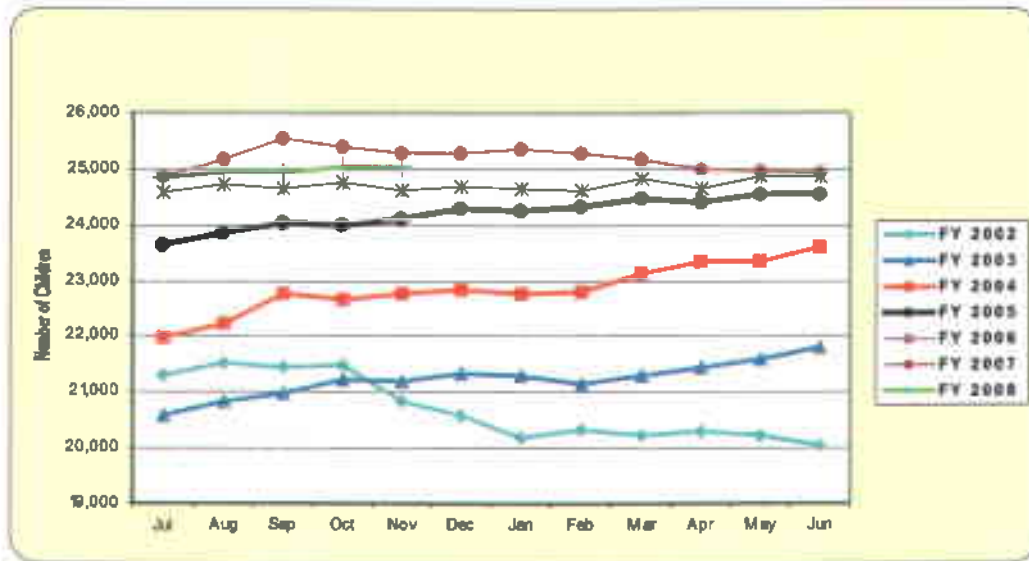
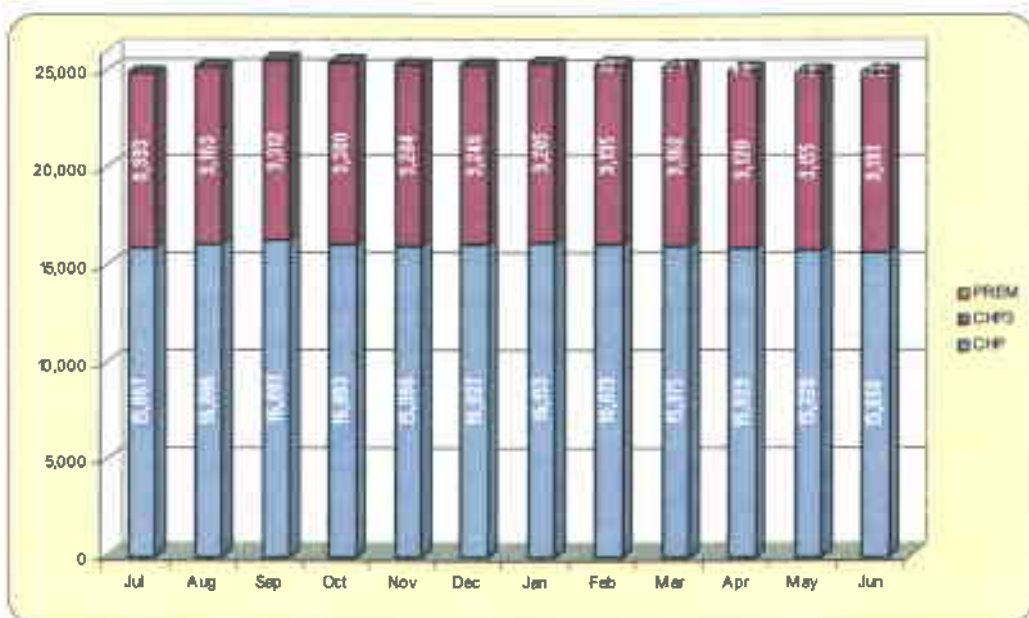
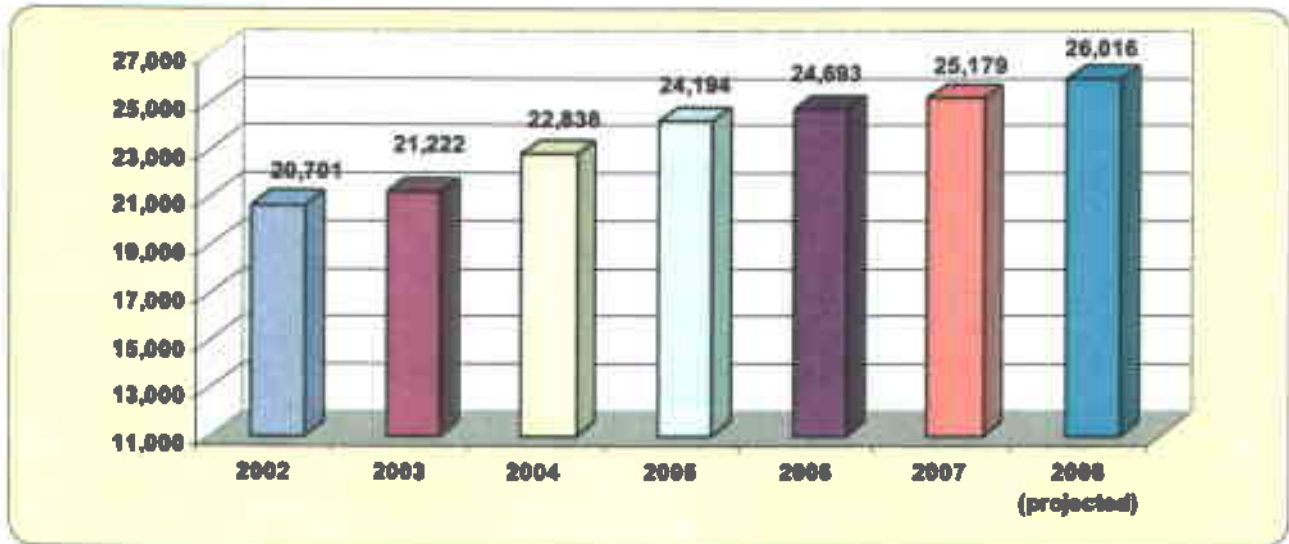


TABLE 2: ENROLLMENT DETAIL



Note: Phase III Effective October 2000 PREMIUM effective January 1, 2007

**TABLE 3: AVERAGE ENROLLMENT
SFY 2001 - 2007**



**UNDUPLICATED COUNT OF CHILDREN SERVED
IN WVCHIP EACH YEAR ON JUNE 30**

<u>Year</u>	<u>Number</u>	<u>% Change</u>
2001	30,006	
2002	33,569	+11.9%
2003	33,709	+0.4%
2004	35,495	+5.3%
2005	36,978	+4.2%
2006	38,064	+2.9%
2007	38,471	+1.1%

**Total unduplicated number of children ever enrolled as of
June 30, 2007 in WVCHIP since inception:
100,742**

TABLE 4: ENROLLMENT BY GENDER

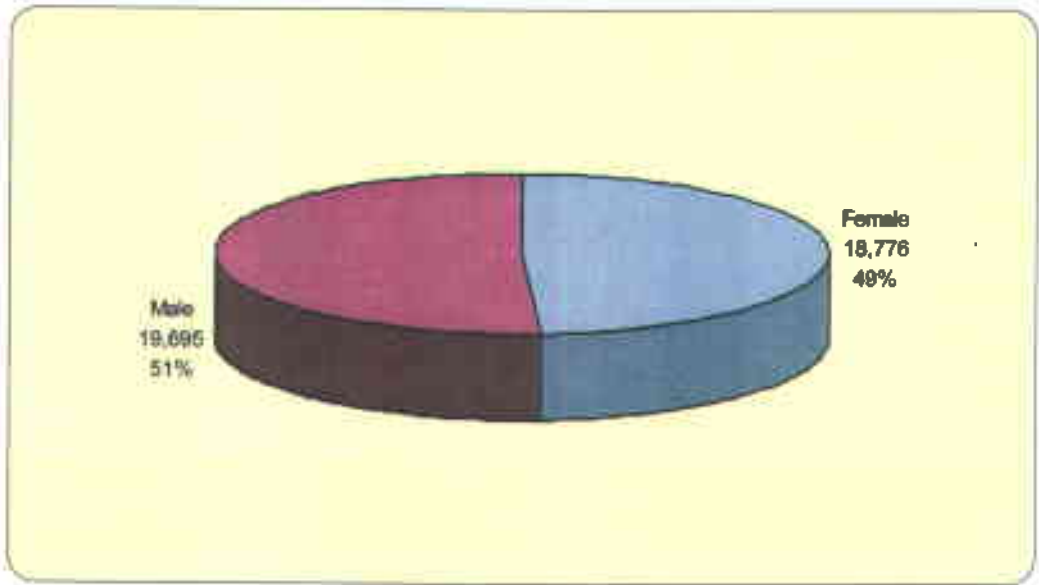


TABLE 5: ENROLLMENT BY AGE

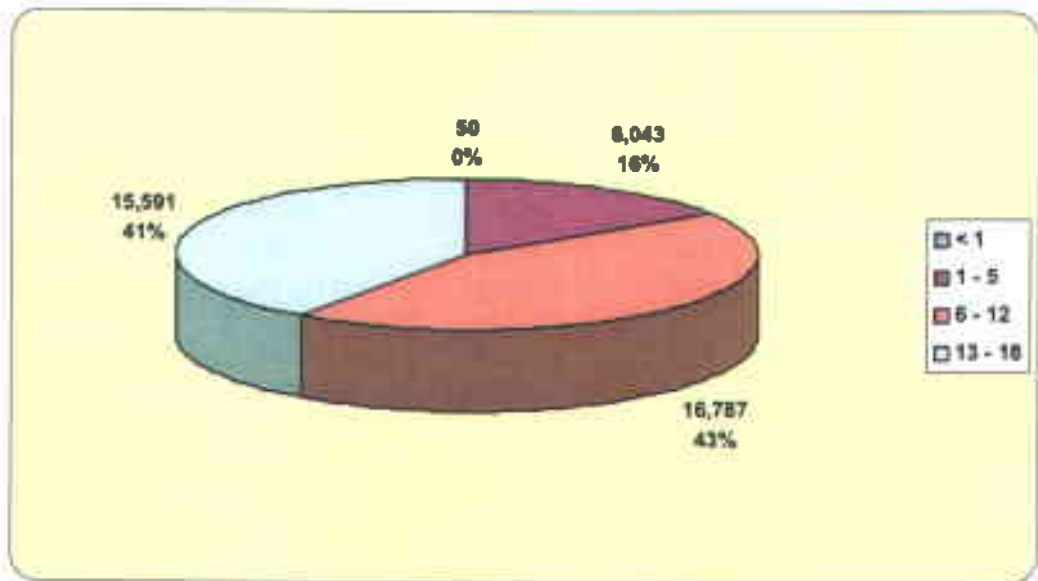
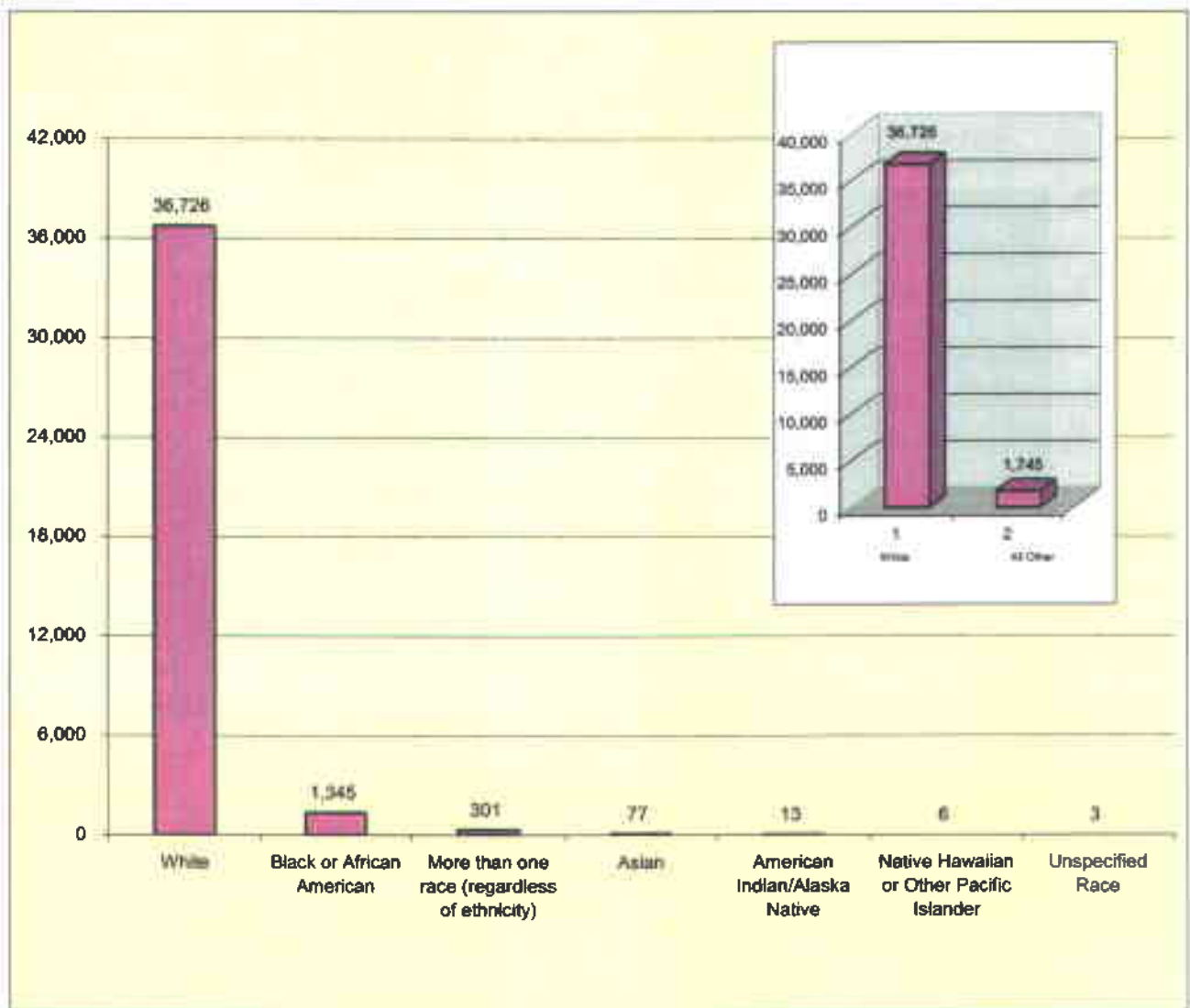
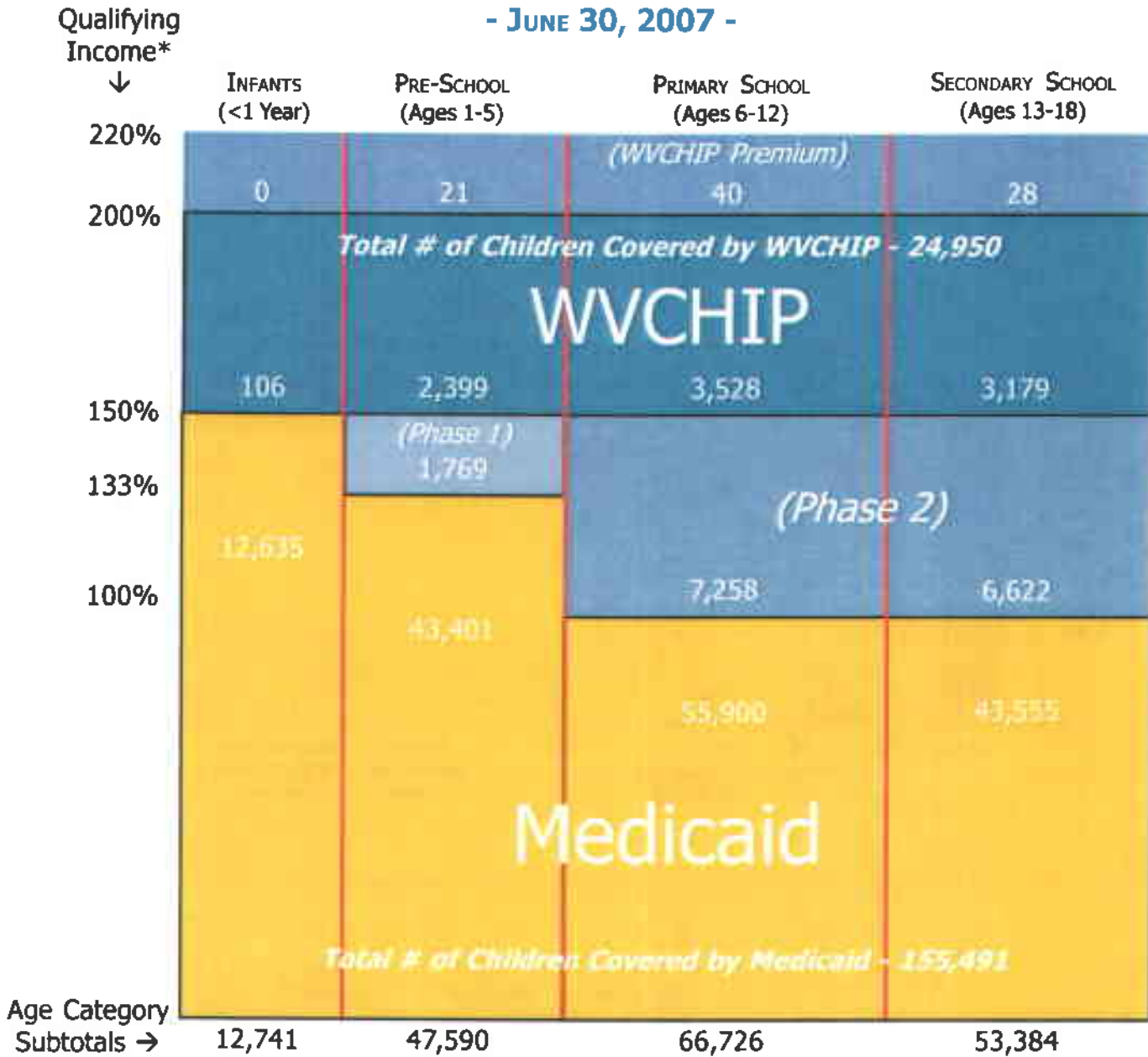


TABLE 6: ENROLLMENT BY RACE/ETHNICITY



<u>Race/Ethnicity</u>	<u>WV CHIP Population</u>	<u>% of WV CHIP Population</u>	<u>WV Population Under 18 Years</u>	<u>% of WV Population Under 18 Years</u>
White	36,726	95.5%	383,524	94.3%
Black or African American	1,345	3.5%	12,954	3.2%
More than one race (regardless of ethnicity)	301	0.8%	3,643	0.9%
Asian	77	0.2%	0	0.5%
American Indian/Alaska Native	13	0.0%	0	0.2%
Native Hawaiian or Other Pacific Islander	6	0.0%	81	0.0%
Unspecified Race	3	0.0%	0	0.2%
Total	38,471	100.0%	400,202	99.3%

**TABLE 7: HEALTH COVERAGE OF WEST VIRGINIA CHILDREN
BY WVCHIP AND MEDICAID
- JUNE 30, 2007 -**



*Household incomes through 220% of the Federal Poverty Level (FPL)

Total WVCHIP Enrollment 24,950 Total WV Medicaid Enrollment 155,491

Total # of Children Covered by WVCHIP and Medicaid - 180,441

**TABLE 8: ANNUAL RE-ENROLLMENT
AND NON-RESPONSES UPON RENEWAL
JULY 2006 THROUGH JUNE 2007**

County	# of Renewal Forms Mailed Monthly To CHIP Households	# of Closure Notices Mailed For Non-Returned Forms	# of Households Re-Opened (as either CHIP or Medicaid)	% of Households Re-Opened After Closure	# of Households Closed with No Response	% of Households Closed
Tucker	159	49	22	44.0%	27	17.0%
Gilmer	106	34	11	32.4%	23	21.7%
Clay	167	52	15	28.8%	37	22.2%
Grant	153	53	19	35.8%	34	22.2%
Randolph	389	137	44	32.1%	93	23.9%
Braxton	209	73	22	30.1%	51	24.4%
Preston	551	219	84	38.4%	135	24.5%
Wirt	161	64	23	35.9%	41	25.5%
Summers	195	63	13	20.6%	50	25.8%
Pocahontas	182	62	15	24.2%	47	25.8%
Calhoun	119	41	10	24.4%	31	26.1%
Marion	671	250	73	29.2%	177	26.4%
Nicholas	397	155	50	32.3%	105	26.4%
Pleasants	92	28	3	10.7%	25	27.2%
Ohio	412	159	47	29.6%	112	27.2%
Roane	295	110	29	26.4%	81	27.5%
Mingo	588	217	56	25.8%	161	27.5%
Mason	301	110	26	23.6%	84	27.9%
Taylor	209	85	26	30.6%	59	28.2%
Lewis	287	115	31	27.0%	84	28.3%
Pendleton	127	54	18	33.3%	36	28.3%
Doddridge	148	56	14	25.0%	42	28.4%
Wood	806	386	128	33.2%	258	28.5%
Morgan	377	143	35	24.5%	108	28.6%
Boone	345	121	22	18.2%	99	28.7%
Greenbrier	498	195	52	26.7%	143	28.7%
Wyoming	2,109	830	201	24.2%	629	29.8%
Monongalia	238	93	22	23.7%	71	29.8%
Hampshire	278	115	32	27.8%	83	29.9%
Mineral	420	170	43	25.3%	127	30.2%
Hamison	835	358	104	29.1%	254	30.4%
Lincoln	403	164	40	24.4%	124	30.8%
McDowell	930	380	92	24.2%	288	31.0%
Raleigh	1,114	475	128	26.9%	347	31.1%
Merrim	278	130	43	33.1%	87	31.3%
Marshall	359	138	25	18.1%	113	31.5%
Hancock	330	142	38	26.8%	104	31.5%
Webster	160	66	15	22.7%	51	31.9%
Putnam	598	242	50	20.7%	192	32.1%
Barbour	357	152	36	23.7%	116	32.5%
Fayette	798	343	82	23.9%	261	32.7%
Wayne	518	226	56	24.8%	170	32.8%
Tyler	159	73	20	27.4%	53	33.3%
Brooke	297	130	30	23.1%	100	33.7%
Jackson	335	153	39	25.5%	114	34.0%
Kanawha	1,799	780	163	20.9%	617	34.3%
Cabell	801	367	92	25.1%	275	34.3%
Monroe	234	112	31	27.7%	81	34.6%
Upshur	366	174	43	24.7%	131	35.8%
Jefferson	450	252	82	32.5%	170	37.8%
Ritchie	165	81	18	22.2%	63	38.2%
Logan	489	239	51	21.3%	188	38.4%
Hardy	169	78	12	15.4%	66	39.1%
Berkeley	1,009	553	146	26.4%	407	40.3%
Wetzel	223	112	22	19.6%	90	40.4%
Totals	24,273	10,169	2,844	26.0%	7,515	31.0%
12-Mo. Ave		847	220	26.0%	626	31.0%

Closure Rates by County

Lowest % of AG's Closed - 17.0%

Highest % of AG's Closed - 40.4%

Average % of AG's Closed - 30.0%

TABLE 9: ENROLLMENT CHANGES BY COUNTY
AS % DIFFERENCE FROM JULY 2006 THROUGH JUNE 2007

County	Total Enrollees July 2006	Total Enrollees June 2007	Difference	% Change
Grant	140	179	39	22%
Wirt	111	130	19	15%
Mason	288	326	38	12%
Jefferson ★	381	425	44	10%
Brooke	272	303	31	10%
Monroe	237	258	21	8%
Webster	188	204	16	8%
Hancock	381	412	31	8%
Pleasants	95	102	7	7%
Calhoun	131	139	8	6%
Fayette	949	1,000	51	5%
Summers	212	222	10	5%
Raleigh ★	1,240	1,295	55	4%
Hampshire	285	297	12	4%
Randolph	468	487	19	4%
Marion	757	784	27	3%
Ohio	469	482	13	3%
Berkeley ★	1,137	1,164	27	2%
Gilmer	103	105	2	2%
Hardy	134	136	2	1%
Hamson ★	955	968	13	1%
Nicholas	451	456	5	1%
Greenbrier	571	577	6	1%
Jackson	380	383	3	1%
Cabell ★	951	958	7	1%
Pocahontas	150	151	1	1%
Wood ★	1,074	1,081	7	1%
Marshall	412	413	1	0%
Doddridge	127	127	0	0%
Monongalia ★	674	673	-1	0%
Kanawha ★	2,086	2,082	-4	0%
McDowell	432	429	-3	-1%
Pendleton	131	130	-1	-1%
Putnam ★	626	620	-6	-1%
Clay	197	194	-3	-2%
Wyoming	451	444	-7	-2%
Mercer ★	1,092	1,075	-17	-2%
Barbour	310	304	-6	-2%
Tucker	179	175	-4	-2%
Logan	531	518	-13	-3%
Wayne	578	563	-15	-3%
Mineral	304	295	-9	-3%
Mingo	441	427	-14	-3%
Morgan	229	220	-9	-4%
Upshur	421	402	-19	-5%
Preston	586	558	-28	-5%
Lewis	333	313	-20	-6%
Wetzel	256	240	-16	-7%
Taylor	230	215	-15	-7%
Lincoln	438	405	-33	-8%
Roane	334	306	-28	-9%
Boone	367	326	-41	-13%
Ritchie	163	141	-22	-16%
Tyler	131	109	-22	-20%
Braxton	259	211	-48	-23%
Totals	24,828	24,939	111	0%
12-Mo. Ave.			9	0%

★ Denotes targeted counties as shown on the map on page 40.

MEDIAN

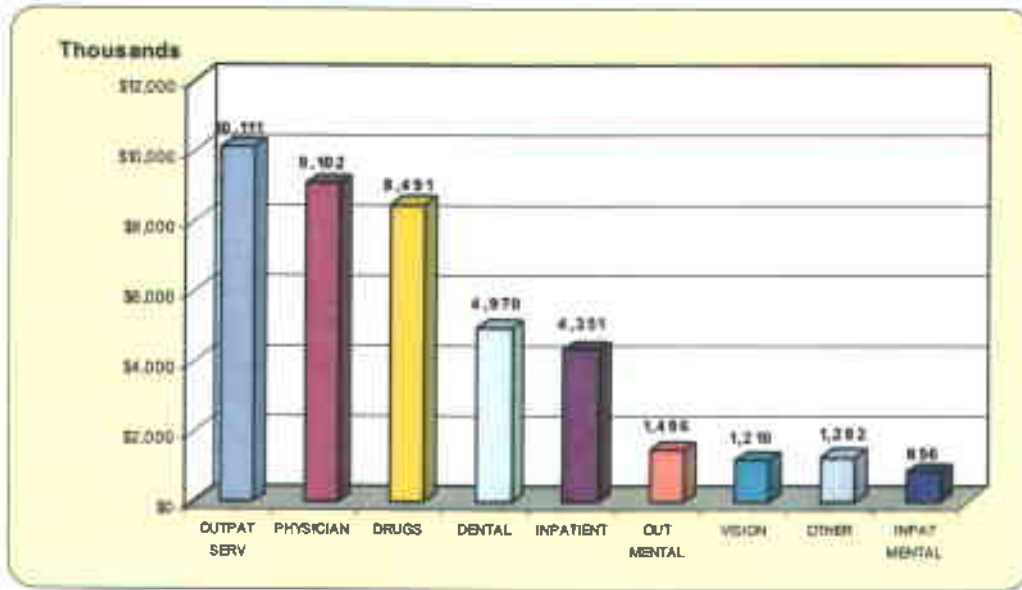
TABLE 10: ENROLLMENT CHANGES BY COUNTY
AS % OF CHILDREN NEVER BEFORE ENROLLED FROM JULY 2006 THROUGH JUNE 2007

County	Total Enrollees July 2006	Total Enrollees June 2007	New Enrollees Never In Program	New Enrollees As % of Jun-07
McDowell	432	429	370	86%
Morgan	229	220	168	76%
Mingo	441	427	323	76%
Mineral	304	295	146	49%
Pleasants	95	102	49	48%
Cabell ★	951	958	458	48%
Tyler	131	109	52	48%
Berkeley ★	1,137	1,164	546	47%
Hampshire	285	297	139	47%
Hardy	134	136	61	45%
Mason	288	326	146	45%
Jefferson ★	381	425	190	45%
Marshall	412	413	182	44%
Jackson	380	383	163	43%
Hancock	381	412	175	42%
Brooke	272	303	128	42%
Monroe	237	258	108	42%
Marion	757	784	328	42%
Randolph	468	487	203	42%
Harrison ★	955	968	399	41%
Wood ★	1,074	1,081	445	41%
Braxton	259	211	86	41%
Lincoln	438	405	165	41%
Kanawha ★	2,086	2,082	844	41%
Putnam ★	626	620	250	40%
Clay	197	184	77	40%
Calhoun	131	139	55	40%
Wetzel	256	240	94	39%
Roane	334	306	119	39%
Grant	140	179	68	38%
Ohio	469	482	182	38%
Lewis	333	313	118	38%
Ritchie	163	141	53	38%
Raleigh ★	1,240	1,295	484	37%
Logan	531	518	192	37%
Boone	367	326	119	37%
Fayette	949	1,000	365	37%
Doddridge	127	127	46	36%
Summers	212	222	79	36%
Wayne	578	563	200	36%
Greenbrier	571	577	199	34%
Webster	188	204	69	34%
Wyoming	451	444	148	33%
Wirt	111	130	43	33%
Barbour	310	304	95	31%
Upshur	421	402	124	31%
Nicholas	451	456	137	30%
Taylor	230	215	64	30%
Preston	586	558	162	29%
Pendleton	131	130	35	27%
Gilmer	103	105	25	24%
Pocahontas	150	151	34	23%
Tucker	179	175	38	22%
Monongalia ★	674	673	80	12%
Mercer ★	1,092	1,075	126	12%
Totals	24,828	24,838	9,754	39%
12-Mo. Ave.			813	39%

★ Denotes targeted counties as shown on the map on page 40.

MEDIAN

TABLE 11: EXPENDITURES BY PROVIDER TYPE
ACCURAL BASIS



EXPENDITURES BY PROVIDER TYPE
ACCURAL BASIS

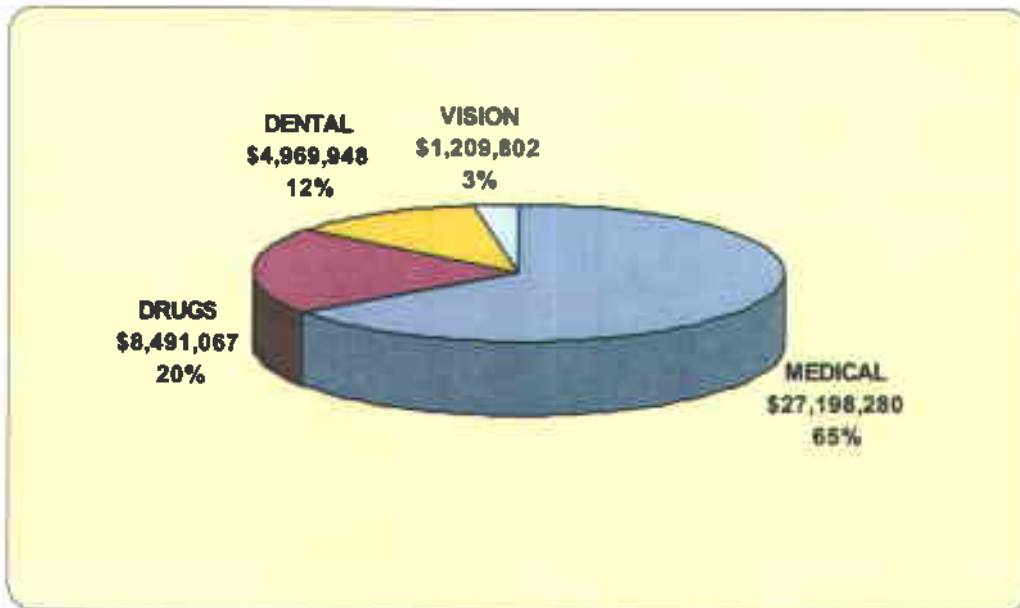


TABLE 12: TOTAL PROGRAM EXPENDITURES

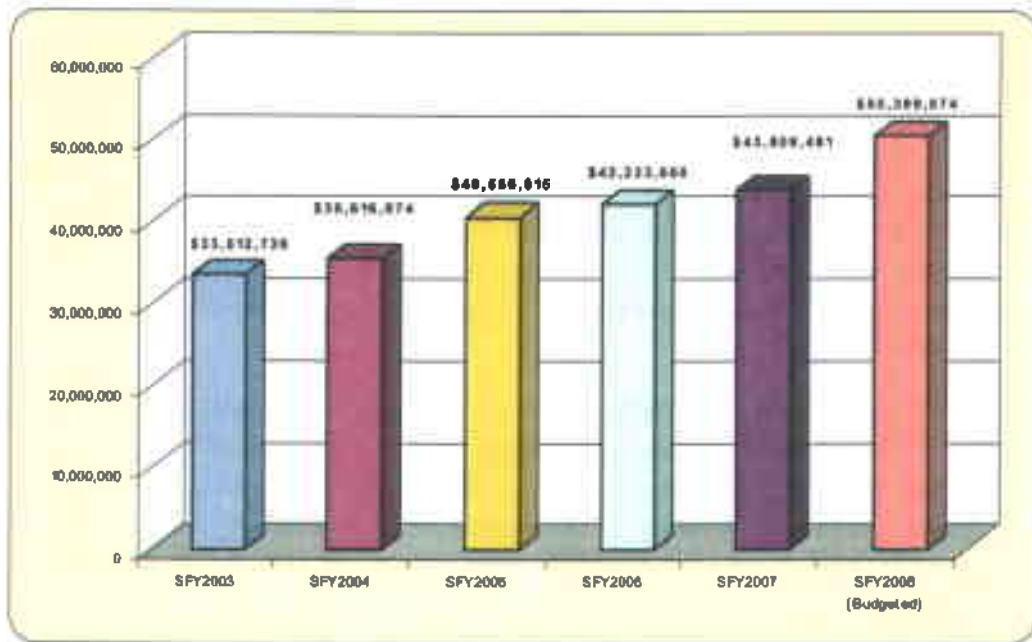
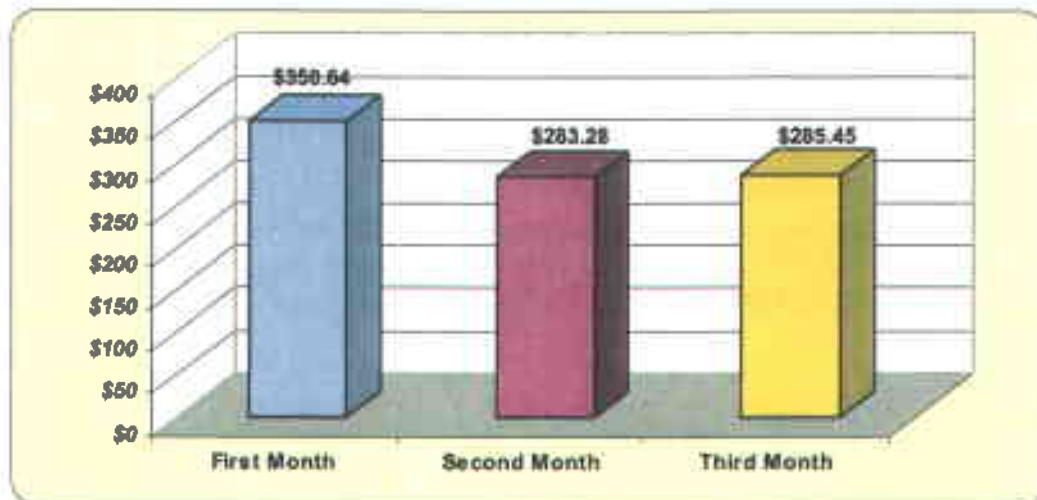


TABLE 13: AVERAGE CLAIMANT COSTS IN FIRST THREE MONTHS SHOWING PENT UP DEMAND FOR SERVICES UPON ENROLLMENT



**THE HEALTH PLAN EMPLOYER DATA AND INFORMATION SET (HEDIS®) - TYPE
DATA AS UTILIZED BY WVCHIP**

HEDIS® is a set of standardized performance measures designed to ensure that purchasers and consumers have the information they need to reliably compare the performance of managed health care plans. However, many states are using HEDIS® to assess services delivered to both Medicaid and State Children's Health Insurance Program (SCHIP) beneficiaries to monitor program performance. Typically, the performance measures in HEDIS® are related to many significant public health issues for adults such as cancer, heart disease, smoking, asthma and diabetes. Child health measures may include preventive and well child visits, immunization status, access to primary care practitioners, dental visits and can include selected chronic conditions.

WVCHIP is utilizing HEDIS®-type measures that identify only those individuals with 12 months of enrollment whose treatment information can be included in calculations of measures assessing the level of services extracted from claims payment in a fee-for-service environment. For HEDIS® measures involving services or treatments delivered in set time frames (e.g., preventive services, screenings, well-care visits), managed care plan members must be enrolled for a minimum of 12 months, with no more than one break of 45 days, to be included in the calculation of the HEDIS® rate. For other measures, the required period of continuous enrollment varies. HEDIS® is sponsored, supported and maintained by the National Committee for Quality Assurance.

The following tables present HEDIS® results for WVCHIP enrollees during calendar year 2006 (*See Tables 14 - 20*).

NOTE ON IMMUNIZATIONS:

WVCHIP is unable to report a HEDIS® measure for all children receiving the recommended combinations of immunizations prior to age three. This is a combined result of the relatively few children covered by WVCHIP between birth to two years (since children in households with incomes up to 150% FPL are covered by Medicaid and since HEDIS® data only counts those children enrolled for 12 months of a calendar year). For this reason the HEDIS® measure is not particularly meaningful for participants in WVCHIP and has been deleted. For other data of available immunizations for children covered by WVCHIP (including the HEDIS® age group), please see Table 25.

HEDIS-TYPE DATA
JANUARY 1, 2006 TO DECEMBER 31, 2006

TABLE 14: DENTAL VISITS

This measure estimates the number of children enrolled for the entire 2006 calendar year, ages 4 through 18, that had a dental visit during the year.

Age Group	Number of Continuously Enrolled Children	Number Having Dental Checkup Visit	% Having Dental Checkup Visit	% Prior Year 05	% Prior Year 04
4 to 6 Years	884	862	97.51%	97.00%	97.02%
7 to 10 Years	2,544	2,460	96.70%	97.20%	96.71%
11 to 14 Years	3,014	2,879	95.52%	95.28%	95.21%
15 to 18 Years	2,388	2,262	94.72%	94.39%	94.68%
Total	8,830	8,463	95.84%	95.81%	95.69%

TABLE 15: VISION VISITS

This measure estimates the number of children enrolled for the entire 2006 calendar year who received a vision visit.

Age Group	Number of Continuously Enrolled Children	Number Having Vision Checkup Visit	% Having Vision Checkup Visit	% Prior Year 05	% Prior Year 04
Under 1 Year	3	-	0.00%	0.00%	33.33%
1 to 5 Years	1,103	135	12.24%	15.24%	15.17%
6 to 11 Years	3,619	1,109	30.64%	31.09%	30.45%
12 to 18 Years	4,650	1,661	35.72%	33.77%	33.47%
Total	9,375	2,905	30.99%	30.43%	30.00%

HEDIS-TYPE DATA
JANUARY 1, 2006 TO DECEMBER 31, 2006

TABLES 16 & 17: WELL CHILD AND ADOLESCENT WELL VISITS

These measures estimate the number of children enrolled for the entire 2006 calendar year from ages birth through six years and from 12 to 21 years of age who have had a well child visit with a physician coded as preventive office visits only.

Age Group	Number of Continuously Enrolled Children	Number Having Well Visit	% Having Well Visit	% Prior Year 05	% Prior Year 04
Less Than Or Equal To 15 Months	18	18	100.00%	100.00%	94.44%
Third Year Of Life	276	262	94.93%	93.89%	94.72%
Fourth Year Of Life	266	247	92.86%	94.51%	93.58%
Fifth Year Of Life	301	289	96.01%	94.76%	93.77%
Sixth Year Of Life	317	300	94.64%	94.65%	92.76%
Total	1,176	1,114	94.73%	94.53%	93.70%

Age Group	Number of Continuously Enrolled Children	Number Having Well Visit	% Having Well Visit	% Prior Year 05	% Prior Year 04
12 To 21 Years of Age	4,650	3,862	83.05%	82.85%	NA
Total	4,650	3,862	83.05%	82.85%	NA

TABLE 18: ACCESS TO PRIMARY CARE

This measure estimates the number of children enrolled for the entire 2006 calendar year from ages 1 to 11 who received office visits/outpatient services for procedures coded to primary care services only.

Age Group	Number of Continuously Enrolled Children	Number Having Primary Care Visit	% Having Primary Care Visit	% Prior Year 05	% Prior Year 04
12 to 24 Months	63	58	92.06%	97.10%	98.44%
25 Months to 6 Years	1,357	1,290	95.06%	95.29%	94.73%
7 to 11 Years	3,296	2,869	87.04%	87.79%	89.99%
Total	4,716	4,217	89.42%	90.05%	91.38%

HEDIS-TYPE DATA
JANUARY 1, 2006 TO DECEMBER 31, 2006

TABLE 19: PROPER USE OF ASTHMA MEDICATIONS

This measure estimates the number of children enrolled for the entire 2006 calendar year as well as the complete year prior with persistent asthma who were prescribed appropriate medication.

Age Group	Asthma Patients	Number with Proper Use of Medications	Medications Rate	% Prior Year 05	% Prior Year 04
5 to 9 Years	287	272	92.76%	92.76%	92.55%
10 to 18 Years	474	430	89.16%	89.16%	85.40%
Total	761	702	92.25%	90.48%	87.78%

TABLE 20: DIABETIC CARE

This measure estimates the number of children enrolled for the entire 2006 calendar year with type 1 and type 2 diabetes who were shown to have had a hemoglobin A1c (HbA1c) test; a serum cholesterol level (LDL-C) screening; and an eye exam and a screen for kidney disease.

Age Group	Diabetic Patients	HbA1c Test	Rate of HbA1c Test	Eye Examinations	Rate of Eye Examinations	LDL-C Test	Rate of LDL-C Test
6 to 11 Years	18	15	68.75%	17	87.50%	1	0.00%
12 to 18 Years	41	39	87.10%	40	96.77%	12	35.48%
Total	59	54	91.53%	57	96.61%	13	22.03%
Total % Prior Year 05			80.85%		93.82%		23.40%
Total % Prior Year 04			77.27%		90.91%		29.55%

SELECTED UTILIZATION DATA AS HEALTH STATUS INDICATORS

WVCHIP currently operates exclusively in a fee-for-service payment structure. The data in Tables 21 - 25 reflect preventive services as extracted from claims payments. The selected preventive services are:

- Vision
- Dental
- Well Child Visits
- Access to Primary Care
- Immunizations

Unlike the HEDIS®-type data in the preceding Tables 14 - 20, the health status indicator data reflects services for all WVCHIP enrollees whether they are enrolled for one month or twelve months in the annual measurement period. Also, it captures more specific data for the entire population, which may not be captured in a HEDIS® measure. (e.g. the HEDIS® child immunization measure is specific to a required combined set of several immunizations over a two year period for two year-olds resulting in a “0” measure, whereas the selected immunization data reflect more detail.)

The advantage of having separate HEDIS®-type measures is to allow comparison among managed health care plans and with other states’ CHIP or Medicaid programs.

TABLE 21:
HEALTH STATUS INDICATORS
JANUARY 1, 2006 TO DECEMBER 31, 2006

VISION SERVICES

Age Group	Enrollment	Services	Utilization Rate	CHIP Expenditures	Per Member Per Year
0 to 364 Days	110	8	0.07	405.84	3.69
1 to 2 Years	1,622	44	0.03	3,763.64	2.32
3 Years	884	70	0.08	5,566.23	6.30
4 to 5 Years	1,824	276	0.15	20,374.56	11.17
6 to 11 Years	9,518	2,935	0.31	228,471.84	24.00
12 to 18 Years	11,439	3,721	0.33	287,887.03	25.17
Overall	25,397	7,054	0.28	546,469.14	21.52

TABLE 22:
HEALTH STATUS INDICATORS
JANUARY 1, 2006 TO DECEMBER 31, 2006

DENTAL SERVICES

Age Group	Enrollment	Services	Utilization Rate	CHIP Expenditures	Per Member Per Year
0 to 364 Days	110	-	-	-	-
1 to 2 Years	1,622	414	0.26	45,901	28.30
3 Years	884	865	0.98	126,810	143.45
4 to 5 Years	1,824	2,505	1.37	326,379	178.94
6 to 11 Years	9,518	14,860	1.56	1,666,643	175.10
12 to 18 Years	11,439	15,991	1.40	2,026,793	177.18
Overall	25,397	34,635	1.36	4,192,525	165.08

TABLE 23:
HEALTH STATUS INDICATORS
JANUARY 1, 2006 TO DECEMBER 31, 2006

WELL CHILD VISITS

Age Group	Enrollment	Services	Utilization Rate	CHIP Expenditures	Per Member Per Year
0 to 364 Days	110	409	3.72	35,505.65	322.78
1 to 2 Years	1,622	2,347	1.45	231,587.05	142.78
3 Years	884	569	0.64	47,775.84	54.05
4 to 5 Years	1,824	1,315	0.72	137,941.85	75.63
6 to 11 Years	9,518	3,190	0.34	314,405.99	33.03
12 to 18 Years	11,439	3,431	0.30	333,259.32	29.13
Overall	25,397	11,261	0.44	1,100,475.70	43.33

TABLE 24:
HEALTH STATUS INDICATORS
JANUARY 1, 2006 TO DECEMBER 31, 2006

ACCESS TO PRIMARY CARE SERVICES

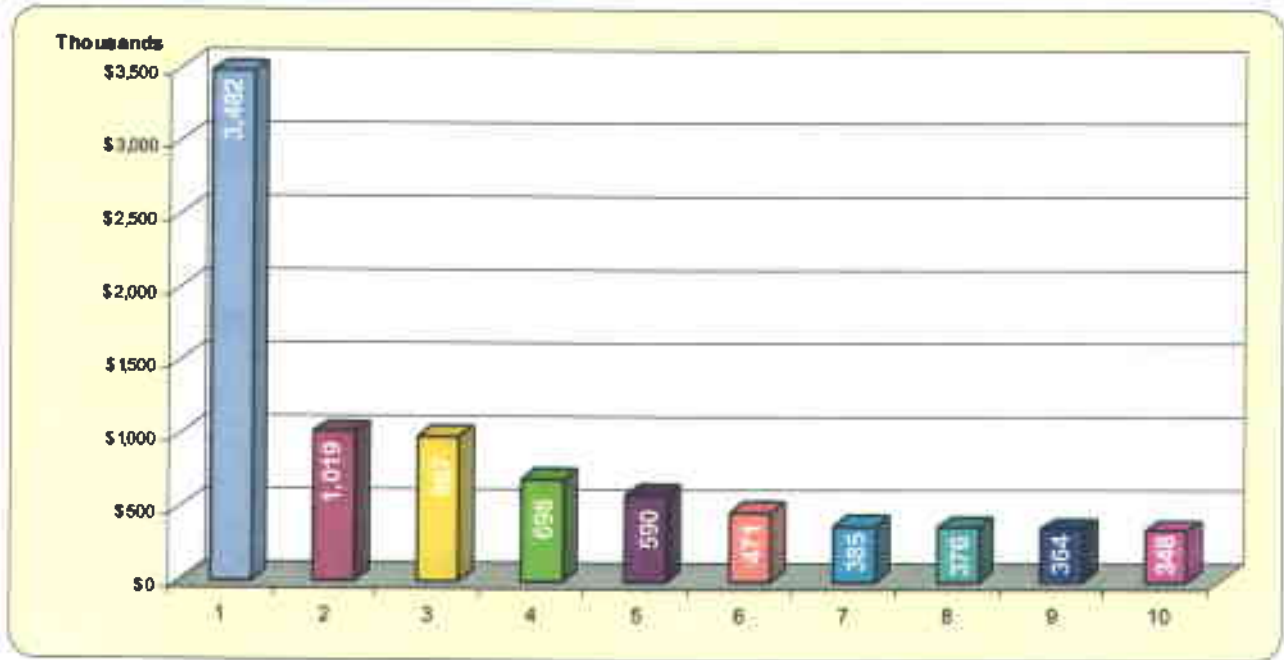
Age Group	Enrollment	Services	Utilization Rate	CHIP Expenditures	Per Member Per Year
0 to 364 Days	110	924	8.40	58,949.66	535.91
1 to 2 Years	1,622	9,910	6.11	638,333.75	393.55
3 Years	884	3,832	4.33	218,876.37	247.60
4 to 5 Years	1,824	8,104	4.44	499,032.80	273.59
6 to 11 Years	9,518	32,272	3.39	2,005,902.56	210.75
12 to 18 Years	11,439	36,254	3.17	2,219,548.25	194.03
Overall	25,397	91,296	3.59	5,640,643.39	222.10

TABLE 25:
HEALTH STATUS INDICATORS
JANUARY 1, 2006 TO DECEMBER 31, 2006

IMMUNIZATIONS SERVICES

Age Group	Service	Count	Rate	Rate	Rate	Rate
0 to 364 Days	Diphtheria and Tetanus	110	1.00	0.01	-	-
	DTaP		147.00	1.34	257.84	2.34
	Hepatitis B		18.00	0.16	25.00	0.23
	Hib		174.00	1.58	105.26	0.96
	IPV / OPV		43.00	0.39	144.39	1.31
	VZV		1.00	0.01	67.34	0.61
	Total		110	104.00	1.00	509.83
1 to 2 Years	Administration - Influenza Vaccine	1,622	25.00	0.02	131.42	0.08
	Diphtheria and Tetanus		11.00	0.01	0.02	0.00
	DTaP		65.00	0.04	662.98	0.41
	Hepatitis B		20.00	0.01	30.32	0.02
	Hib		506.00	0.31	711.52	0.44
	IPV / OPV		74.00	0.05	225.97	0.14
	Measles		2.00	0.00	-	-
	MMR		375.00	0.23	3,617.86	2.23
	VZV		253.00	0.16	5,297.74	3.27
Total		1,622	1,331.00	0.02	10,577.83	6.08
3 Years	Administration - Influenza Vaccine	884	5.00	0.01	36.05	0.04
	DTaP		2.00	0.00	-	-
	Hepatitis B		4.00	0.00	-	-
	Hib		10.00	0.01	-	-
	IPV / OPV		8.00	0.01	36.00	0.04
	MMR		10.00	0.01	108.50	0.12
	VZV		9.00	0.01	336.70	0.38
Total		884	48.00	0.05	617.26	0.68
4 to 5 Years	Administration - Influenza Vaccine	1,824	13.00	0.01	77.86	0.04
	Diphtheria and Tetanus		10.00	0.01	-	-
	DTaP		21.00	0.01	-	-
	Hepatitis B		7.00	0.00	65.00	0.04
	Hib		14.00	0.01	26.52	0.01
	IPV / OPV		660.00	0.36	517.69	0.28
	Measles		4.00	0.00	-	-
	MMR		668.00	0.37	3,187.65	1.75
	VZV		88.00	0.05	2,031.97	1.11
Total		1,824	1,485.00	0.01	5,908.69	3.24
6 to 11 Years	Administration - Influenza Vaccine	9,518	58.00	0.01	324.01	0.04
	Administration - Pneumococcal Vaccine		1.00	0.00	7.21	0.00
	Diphtheria and Tetanus		6.00	0.00	-	-
	DTaP		3.00	0.00	33.59	0.00
	Hepatitis B		16.00	0.00	125.00	0.01
	Hib		2.00	0.00	-	-
	IPV / OPV		15.00	0.00	-	-
	MMR		22.00	0.00	-	-
	Tetanus		15.00	0.00	136.52	0.01
	VZV		244.00	0.03	5,685.48	0.60
Total		9,518	382.00	0.04	6,321.81	0.68
12 to 18 Years	Administration - Hepatitis B	11,439	4.00	0.00	21.63	0.00
	Administration - Influenza Vaccine		71.00	0.01	450.63	0.04
	Administration - Pneumococcal Vaccine		5.00	0.00	28.84	0.00
	Diphtheria and Tetanus		21.00	0.00	-	-
	DTaP		12.00	0.00	28.00	0.00
	Hepatitis B		180.00	0.02	404.76	0.04
	Hib		1.00	0.00	-	-
	IPV / OPV		2.00	0.00	20.45	0.00
	MMR		12.00	0.00	65.00	0.01
	Tetanus		65.00	0.01	769.72	0.07
VZV		86.00	0.01	2,394.89	0.21	
Total		11,439	499.00	0.04	4,183.82	0.37
Overall		25,397	4,069.00	0.16	28,207.53	1.11

**TABLE 26: TOP TEN PHYSICIAN SERVICES
BY AMOUNTS PAID**



Key

	<u>CPT Code*</u>
1 Office Visit Limited - Est. Patient	(99213)
2 Office Visit Intermediate - Est. Patient	(99214)
3 Individual Psychotherapy	(90806)
4 ER Exam - Intermediate - New Patient	(99283)
5 Office Visit Brief - Est. Patient	(99212)
6 ER Exam - Extended - New Patient	(99284)
7 Ophthalmological Exam - Comprehensive - Est. Patient	(92014)
8 Periodic Comprehensive Wellness Exam Age 5-11 - Est. Patient	(99393)
9 Psychiatric Diagnostic Interview/Exam	(90801)
10 Periodic Comprehensive Wellness Exam Age 1-4 - Est. Patient	(99392)

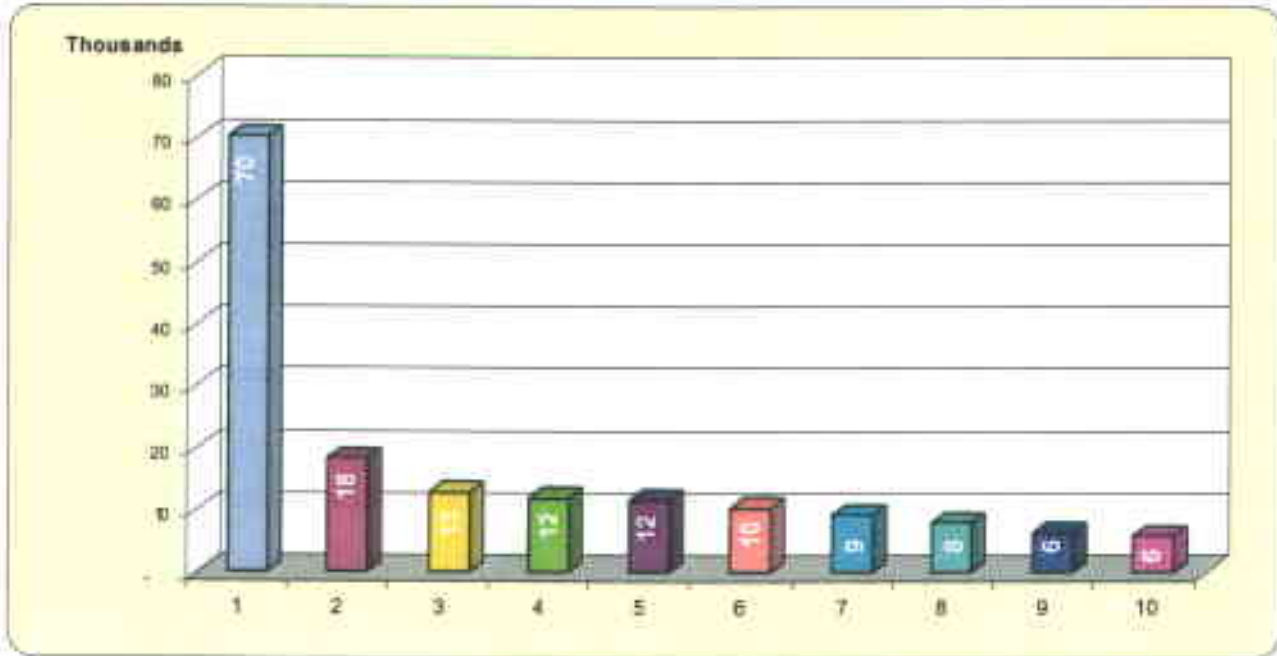
**As described in Current Procedure Terminology 2006 by the American Medical Association.*

TABLE 26: TOP TEN PHYSICIAN SERVICES
BY AMOUNTS PAID

CPT CODE DESCRIPTION

- 1 **Office Visit Limited - Est. Patient:** for an established patient taking about 15 minutes or less of face-to-face time with patient and/or family for problems with low to moderate severity; requires 2 of 3 key components: an expanded problem focused history and examination and medical decision making of low complexity (CPT 99213)
- 2 **Office Visit Intermediate - Est. Patient:** for an established patient taking about 25 minutes of face-to-face time with the patient and/or family for problem(s) of moderate to high severity; 2 of 3 required visit components are a detailed history and examination and medical decision making of moderate complexity (CPT 99214)
- 3 **Individual Psychotherapy:** requiring a face-to-face visit with a therapist for insight oriented, behavior modifying and/or supportive therapy for 45 to 50 minutes (CPT 90806)
- 4 **ER Exam - Intermediate - New Patient:** requiring 1) an expanded problem-focused history; 2) an expanded problem focused examination; and 3) medical decision making of moderate complexity - usually for a problem of moderate severity (CPT 99283)
- 5 **Office Visit Brief - Est. Patient:** for an established patient taking about ten minutes or less of face-to-face time with patient and/or family for self limiting or minor problems; 2 of 3 required visit components are a problem focused history and examination and straightforward medical decision making (CPT 99212)
- 6 **ER Exam - Extended - New Patient:** requiring 1) a detailed history; 2) a detailed examination; and 3) medical decision making of moderate complexity - usually when urgent evaluation is needed for a problem of high severity (CPT 99284)
- 7 **Ophthalmological Exam - Comprehensive - Est. Patient:** for an established patient at an intermediate level in a face-to-face encounter by the physician for a general evaluation of the complete visual system including history, general medical observation, external and ophthalmological examinations, gross visual fields and basic sensorimotor examination. It need not be performed all in one session (CPT 92014)
- 8 **Periodic Comprehensive Wellness Exam Age 5-11 - Est. Patient:** An age and gender specific preventive medical exam that includes appropriate history, exam, any needed counseling/anticipatory guidance/risk factor reduction interventions as well as ordering of appropriate immunizations and laboratory tests for an established patient. These exams are coded to the correct age/stage period and are guided by criteria established by the American Academy of Pediatrics (CPT 99393)
- 9 **Psychiatric Diagnostic Interview/Exam:** an examination which includes a history, mental status, and a disposition; may include communication with family or other sources, ordering and interpreting other medical or diagnostic studies (CPT 90801)
- 10 **Periodic Comprehensive Wellness Exam Age 1-4 - Est. Patient:** An age and gender specific preventive medical exam that includes appropriate history, exam, any needed counseling/anticipatory guidance/risk factor reduction interventions as well as ordering of appropriate immunizations and laboratory tests for an established patient. These exams are coded to the correct age/stage period and are guided by criteria established by the American Academy of Pediatrics (CPT 99392)

**TABLE 27: TOP TEN PHYSICIAN SERVICES
BY NUMBER OF TRANSACTIONS**



Key

	<u>CPT Code*</u>
1 Office Visit Limited - Est. Patient	(99213)
2 Office Visit Brief - Est. Patient	(99212)
3 Office Visit Intermediate - Est. Patient	(99214)
4 Individual Psychotherapy	(90806)
5 Immunization Administration	(90471)
6 Blood Count	(85025)
7 ER Exam - Intermediate - New Patient	(99283)
8 Test for Streptococcus	(87880)
9 Therapeutic Procedures, One or More Areas, Each 15 Minutes	(97110)
10 Pharmacologic Management	(90862)

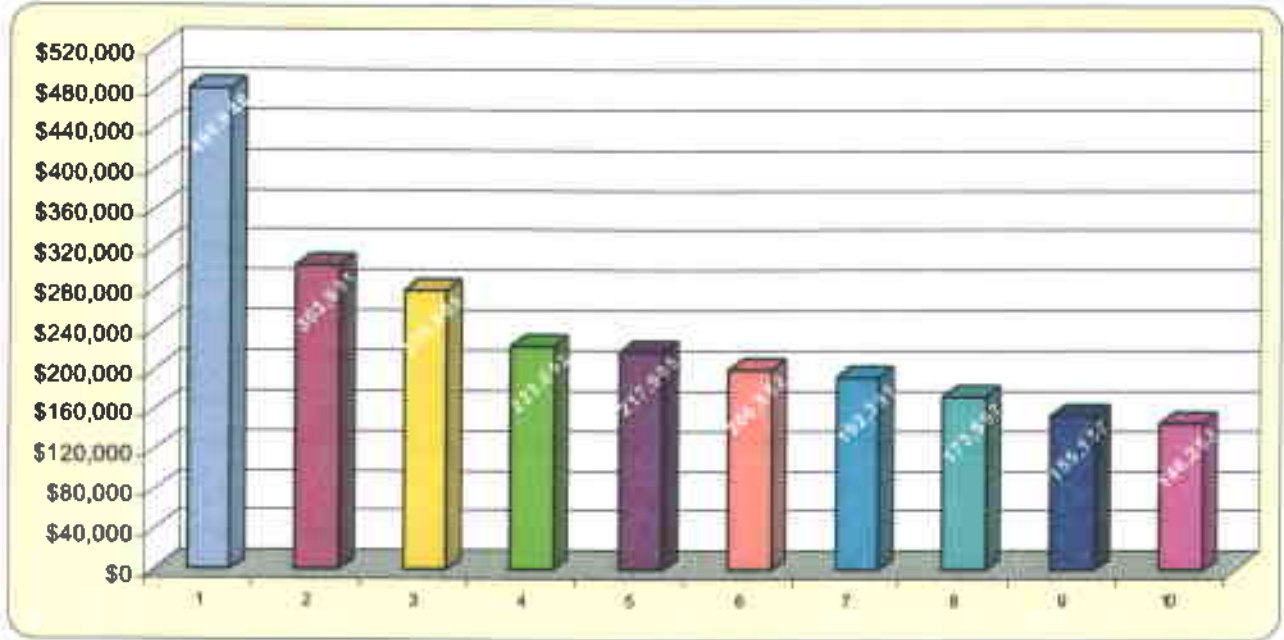
**As described in Current Procedure Terminology 2006 by the American Medical Association.*

TABLE 27: TOP TEN PHYSICIAN SERVICES
BY NUMBER OF TRANSACTIONS

CPT CODE DESCRIPTION

- 1 **Office Visit Limited - Est. Patient:** for an established patient taking about 15 minutes or less of face-to-face time with patient and/or family for problems with low to moderate severity; requires 2 of 3 key components: an expanded problem focused history and examination and medical decision making of low complexity (CPT 99213)
- 2 **Office Visit Brief - Est. Patient:** for an established patient taking about ten minutes or less of face-to-face time with patient and/or family for self limiting or minor problems; 2 of 3 required visit components are a problem focused history and examination and straightforward medical decision making (CPT 99212)
- 3 **Office Visit Intermediate - Est. Patient:** for an established patient taking about 25 minutes of face-to-face time with the patient and/or family for problem(s) of moderate to high severity; 2 of 3 required visit components are a detailed history and examination and medical decision making of moderate complexity (CPT 99214)
- 4 **Individual Psychotherapy:** requiring a face-to-face visit with a therapist for insight oriented, behavior modifying and/or supportive therapy for 45 to 50 minutes (CPT 90806)
- 5 **Immunization Administration:** injection of a vaccine (single or combination toxoid) whether percutaneous, intradermal, subcutaneous, or intramuscular (CPT 90471)
- 6 **Blood Count:** automated (Hgb, Hct, RBC, WBC and platelet count) and automated differential WBC count (CPT 85025)
- 7 **ER Exam - Intermediate - New Patient:** requiring 1) an expanded problem-focused history; 2) an expanded problem focused examination; and 3) medical decision making of moderate complexity - usually for a problem of moderate severity (CPT 99283)
- 8 **Test for Streptococcus:** laboratory testing for Streptococcus bacteria group A as identified by colony morphology, growth on selective media (CPT 87880)
- 9 **Therapeutic Procedures, One or More Areas, Each 15 Minutes:** the application of a therapeutic exercise to develop strength and endurance, range of motion and flexibility; requires direct patient contact by a physician or therapist (CPT 97110)
- 10 **Pharmacologic Management:** a psychiatric review of prescription and use with no more than minimal psychotherapy required (CPT 90862)

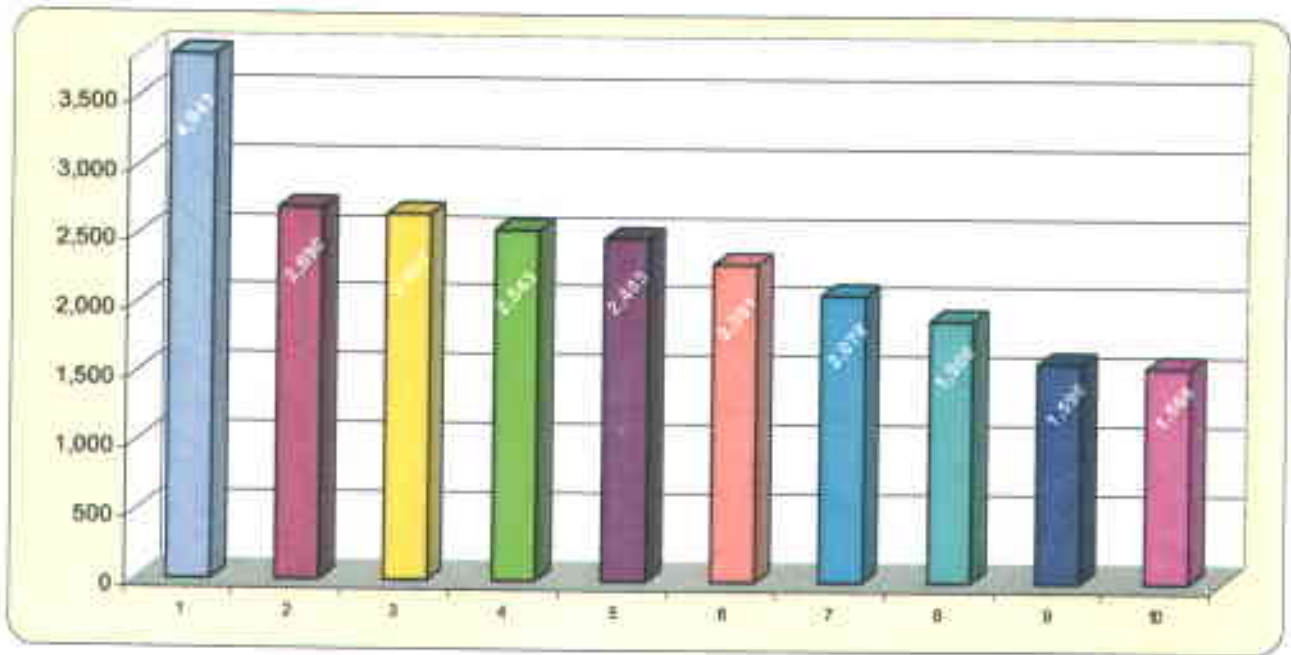
**TABLE 28: TOP TEN PRESCRIPTION DRUGS
BY INGREDIENT COST**



Key

<u>Drug Brand Name</u>	<u>Major Use Indication</u>
1 Singularair 5MG	- Asthma
2 Omnicef 250MG/5ML	- Antibiotic
3 Humatrope 24MG	- Growth Hormone
4 Singularair 10MG	- Asthma
5 Adderall XR 20MG	- Attention Deficit Hyperactivity Disorder (ADHD)
6 Concerta 36MG	- Attention Deficit Hyperactivity Disorder (ADHD)
7 Nasonex 50 MCG	- Allergies
8 Concerta 54MG	- Attention Deficit Hyperactivity Disorder (ADHD)
9 Adderall XR 30MG	- Attention Deficit Hyperactivity Disorder (ADHD)
10 Singularair 4MG	- Asthma

**TABLE 29: TOP TEN PRESCRIPTION DRUGS
BY NUMBER OF RX**

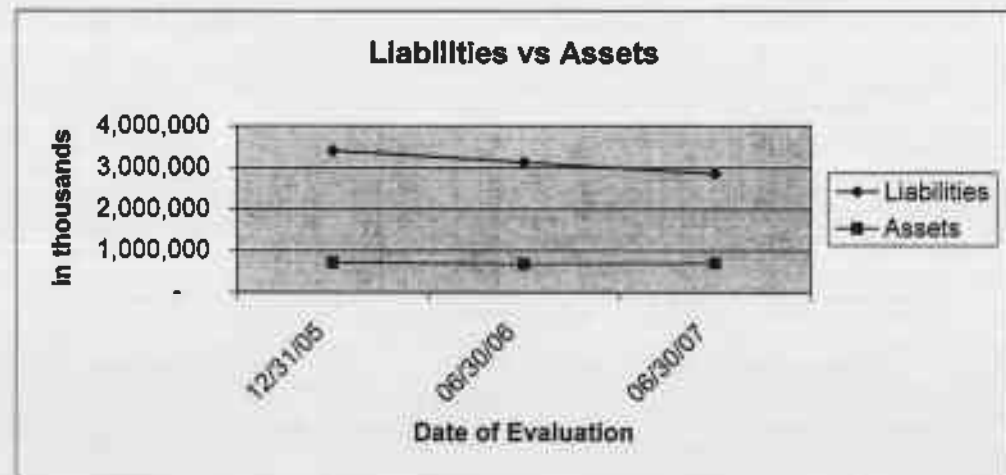
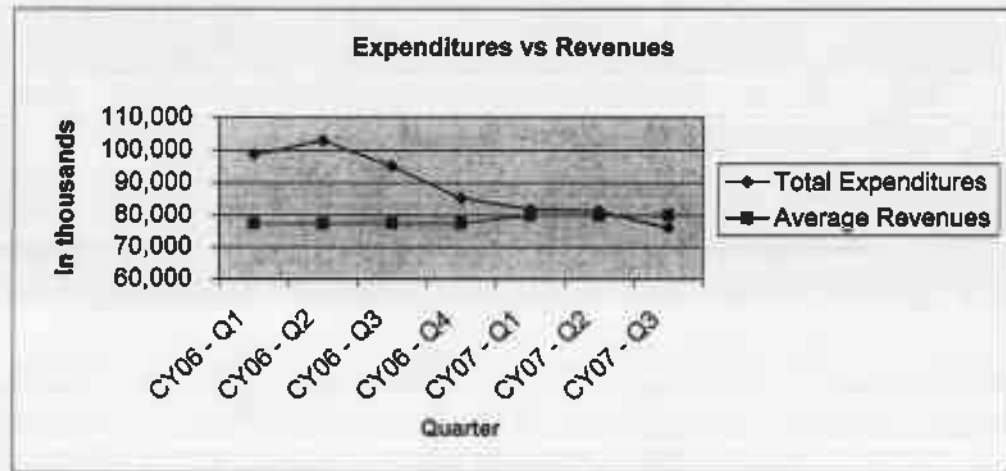


Key

<u>Drug Brand Name</u>	<u>Major Use Indication</u>
1 Singulair 5MG	- Asthma
2 Azithromycin 250MG	- Antibiotic
3 Loratadine 10MG	- Allergies
4 Nasonex 50MCG	- Allergies
5 Omnicef 250MG/5ML	- Antibiotic
6 Singulair 10MG	- Asthma
7 Albuterol 90 MCG	- Asthma
8 Amoxicillin 250MG/5ML	- Antibiotic
9 Adderall XR 20MG	- Attention Deficit Hyperactivity Disorder (ADHD)
10 Concerta 36MG Tablet	- Attention Deficit Hyperactivity Disorder (ADHD)

Workers' Compensation
Expenditures vs. Revenues and Liabilities vs. Assets
1st Quarter 2006 to 3rd Quarter 2007
Calendar Year
 (in thousands)

Quarter	Total Expenditures	Average Revenues
CY06 - Q1	98,595	77,415
CY06 - Q2	102,922	77,415
CY06 - Q3	95,056	77,415
CY06 - Q4	85,236	77,415
CY07 - Q1	81,753	79,929
CY07 - Q2	81,228	79,929
CY07 - Q3	75,932	79,929





Prescription Drug Report

NOVEMBER 2007

WV PEIA - Monthly Trend

Plan Demographics	Jul-07	Aug-07	Sep-07	Oct-07	Nov-07	2007 - 2006 Fiscal	2006 - 2007 Fiscal	% Change
Total Drug Cost	\$10,962,676	\$12,276,453	\$11,755,687	\$12,843,868	\$12,346,188	\$60,164,875	\$62,411,117	-3.57%
Amount Paid By Plan Sponsor	\$6,216,483	\$8,940,942	\$8,978,985	\$10,114,687	\$9,811,122	\$44,062,199	\$46,961,671	-8.17%
Amount Paid By Members	\$4,746,215	\$3,335,511	\$2,776,703	\$2,729,182	\$2,535,065	\$16,122,676	\$15,449,446	4.36%
Total Claims	173,451	189,281	166,161	202,342	197,924	949,159	\$926,399	2.46%
Average Eligible Member	153,233	153,346	153,830	155,178	155,827	154,283	155,499	-0.78%
Average # of Rx's Per Member Per Month	1.13	1.23	1.21	1.30	1.27	1.23	1.19	3.27%
Plan Paid Per Member Per Month (PMPM)	\$40.57	\$58.31	\$58.37	\$65.18	\$62.96	\$57.12	\$80.40	-5.43%
Average Eligible Enrollees	71,040	71,016	71,168	71,701	71,971	71,379	72,604	-1.69%
Average # of Rx's Per Enrollee Per Month	2.44	2.67	2.62	2.82	2.75	2.66	\$2.55	4.22%
Plan Paid Per Enrollee Per Month (PEPM)	\$87.51	\$125.90	\$126.17	\$141.07	\$136.32	\$123.46	\$129.36	-4.56%
Rx Cost Share								
Avg. Claim Cost to Plan	\$35.84	\$47.24	\$48.23	\$49.99	\$49.57	\$46.42	\$50.64	-8.42%
Avg. Member Cost/Claim	\$27.36	\$17.62	\$14.92	\$13.49	\$12.81	\$16.96	\$16.68	1.86%
Percent member Cost Share	43.3%	27.2%	23.6%	21.2%	20.5%	26.8%	24.8%	8.22%
Average Ingredient Costs								
Single Source (no generics available)	\$147.99	\$153.07	\$152.30	\$155.57	\$154.97	\$162.91	\$ 132.24	15.63%
Multi-Source Brand (generics available)	\$36.90	\$35.75	\$35.97	\$41.66	\$38.23	\$37.80	\$ 38.66	-2.24%
Generic Drugs	\$19.58	\$20.43	\$20.65	\$20.52	\$20.37	\$20.33	\$ 25.02	-18.78%
Brand/Generic Dispensing Rates								
Single Source (no generics)	32.47%	32.01%	30.87%	30.4%	29.81%	31.06%	37.33%	-16.79%
Multi-Source Brand % (generics available)	1.12%	1.06%	1.01%	1.0%	0.97%	1.04%	1.19%	-13.02%
Generic Drug	66.41%	66.93%	68.12%	68.6%	69.22%	67.90%	61.48%	10.45%
Generics Dispensed when available	98.35%	98.44%	98.54%	98.5%	98.61%	98.50%	98.10%	0.41%
Percent of Plan Cost for Single Source	86.12%	82.07%	79.74%	79.1%	78.34%	80.65%	77.51%	4.04%
Retail Pharmacy Program								
Avg. Day Supply	32.4	33.1	32.4	32.1	31.7	32.3	32.08	0.76%
Avg. Plan Cost/Day Supply	\$1.09	\$1.41	\$1.48	\$1.54	\$1.55	\$1.42	1.56	-8.84%
Avg. Claim Cost to Plan	\$35.43	\$46.74	\$47.91	\$49.48	\$48.98	\$45.93	49.98	-8.10%
Avg. Member Cost / Claim	\$27.21	\$17.47	\$14.82	\$13.40	\$12.72	\$16.87	16.87	-0.01%
Percent Member Cost Share	43.43%	27.21%	23.66%	21.3%	20.61%	26.86%	25.25%	6.39%
Special Maint Netwk (% of claims filled)	10.98%	11.87%	11.63%	11.4%	11.17%	11.41%	11.07%	3.06%
Other Maint (% of claims filled)	0.59%	0.64%	0.56%	0.6%	0.58%	0.59%	1.25%	-52.90%
Avg. Days Supply for Maint. Netwks	87.6	87.6	87.7	87.5	87.6	87.6	87.7	-0.09%
Total # Claims Fills 1-34 Days Supply	150,831	162,811	160,912	175,573	172,458	822,585	804,727	2.22%
Total # Claims Fills 35-60 Day Supply	1,150	1,353	1,212	1,386	1,286	6,389	6,287	1.62%
Total # Claims Fills 61-90 Day Supply	19,883	20,264	22,408	20,530	22,334	111,419	106,778	4.35%
Total # Claims Fills 91+ Day Supply	7	11				31	174	-82.18%
Mail Service Program								
Avg. Days Supply	71.0	72.0	70.8	72.0	71.3	71.4	72	-1.39%
Avg. Plan Cost/Days Supply	\$1.10	\$1.36	\$1.36	\$1.50	\$1.57	\$1.39	1.33	4.79%
Avg. Cost to Plan	\$79.94	\$97.90	\$96.21	\$107.78	\$112.06	\$99.41	96.20	3.34%
Avg. Member Cost/Claim	\$44.20	\$32.72	\$25.81	\$23.32	\$22.55	\$29.38	27.42	7.17%
Percent Member Cost Share	35.60%	25.05%	21.16%	17.8%	16.75%	22.81%	22.2%	2.65%
Total # Claims Fill 1-34 Days Supply	510	553	524	559	577	2,723	2,497	9.05%
Total # Claims Fills 35-60 Days Supply	1	3	3	5	11	26	19	36.84%
Total # Claims Fills 61-90 Days Supply	1,068	1,284	1,096	1,284	1,254	5,986	5,917	1.17%
Total # Claims Fills 91+ Day Supply	0	0	0	0	0	0	0	
Formulary Program								
S/S Formulary Drugs (% by claim)	23.70%	23.51%	22.84%	22.7%	22.46%	23.03%	24.85%	-7.32%
S/S Non-Formulary Drugs (% by claim)	8.77%	8.50%	8.02%	7.6%	7.35%	8.03%	12.48%	-35.65%
M/S Drugs (% by claim)	1.12%	1.06%	1.01%	1.0%	0.97%	1.04%	1.19%	-13.02%
Generic Drugs (% by Claim)	66.41%	66.93%	68.12%	68.6%	69.22%	67.90%	61.48%	10.45%
S/S Formulary Drugs (% by \$)	74.78%	70.12%	68.10%	68.0%	67.39%	69.28%	60.30%	14.89%
S/S non-Formulary Drugs (% by \$)	11.34%	11.95%	11.64%	11.0%	10.94%	11.37%	17.21%	-33.98%
M/S Drugs (% by \$)	0.26%	0.21%	0.21%	0.3%	0.25%	0.26%	0.35%	-27.04%
Generic Drugs (% by \$)	13.61%	17.72%	20.05%	20.6%	21.41%	19.10%	22.14%	-13.73%
Specialty Drugs								
Total Drug Cost	\$1,085,982	\$1,164,601	\$1,015,053	\$1,192,393	\$1,138,804	\$5,596,863	\$5,342,398	4.76%
Amount Paid by Plan Sponsor	\$1,030,966	\$1,127,423	\$985,618	\$1,159,420	\$1,106,427	\$5,409,854	\$5,122,967	5.60%
Amount Paid by Members	\$55,016	\$37,178	\$29,435	\$32,973	\$32,407	\$187,009	\$219,431	-14.78%
Total Claims	622	673	590	654	659	3,198	\$3,764	-15.04%
Avg # of Rx's per Member per Month	0.00	0.00	0.00	0.004	0.004	0.004	0.005	-14.37%
Plan Paid Per Member Per Month (PMPM)	\$6.73	\$7.35	\$6.41	\$7.47	\$7.10	\$7.01	\$6.59	8.43%
Avg Claim Cost to Plan	\$1,657.56	\$1,675.22	\$1,670.54	\$1,772.81	\$1,678.95	\$1,691.64	\$1,361.04	24.29%
Avg Claim Cost to Member	\$68.45	\$55.24	\$49.89	\$50.42	\$49.11	\$58.48	\$58.30	0.31%
Percent of Member Cost Share	5.07%	3.19%	2.90%	2.77%	2.85%	3.34%	4.11%	-18.65%
Percent of Overall Drug Spend	9.91%	9.49%	8.63%	9.28%	9.22%	9.30%	8.56%	8.64%

Key Performance Indicators with Specialty



Primary Indicators
WVA - WV Public Employees Ins

Current Period: 11/2007 - 11/2007
Previous Period: 11/2006 - 11/2006

	Current Period	Previous Period	% Change
Overall Performance			
Plan Cost PMPM	\$63.82	\$90.71	-29.6 %
Plan Cost PMPM (Specialty)	\$7.44	\$7.42	0.3 %
Average Mbrs/Month	155,827	188,978	-17.5 %
Average Subs/Month	71,971	97,521	-26.2 %
Unique Patients	70,272	96,633	-27.3 %
Unique Patients (Specialty)	596	846	-29.6 %
Rx Measures			
Rxs PMPM	1.28	1.65	-22.2 %
Average Plan Cost/Rx	\$49.83	\$55.09	-9.5 %
Average Plan Cost/Rx (Specialty)	\$1,666.41	\$1,503.15	10.9 %
Average Mbr Contrib/Rx	\$12.88	\$12.44	3.6 %
Average Mbr Contrib/Rx (Specialty)	\$49.36	\$47.43	4.1 %
Average Ing Cost/Rx	\$61.00	\$65.41	-6.7 %
Average Ing Cost/Rx (Specialty)	\$1,715.43	\$1,550.20	10.7 %
% Plan Cost	79.5 %	81.6 %	-2.6 %
% Member Contribution	20.5 %	18.4 %	11.5 %
% Plan Cost (Specialty)	97.1 %	96.9 %	0.2 %
% Member Contribution (Specialty)	2.9 %	3.1 %	-1.0 %
Rx Sources			
% Mail Rxs	0.9 %	1.0 %	-9.9 %
% Retail Rxs	99.1 %	98.9 %	0.2 %
% Member Submit Rxs	0.0 %	0.1 %	-50.0 %
Specialty Rx Sources			
% CuraScript Rxs (Specialty)	87.5 %	81.0 %	8.0 %
% NonCuraScript Rxs (Specialty)	12.5 %	19.0 %	-34.1 %
Rx Types			
Avg SSB Plan Cost/Rx	\$130.69	\$112.30	16.4 %
Avg MSB Plan Cost/Rx	\$13.12	\$14.46	-9.3 %
Avg GEN Plan Cost/Rx	\$15.40	\$22.66	-32.0 %
% Single-Source Brand Rxs	29.9 %	36.3 %	-17.7 %
% Multi-Source Brand Rxs	1.0 %	1.2 %	-20.4 %
% Generic Rxs	69.1 %	62.5 %	10.7 %

Key Performance Indicators with Specialty



Primary Indicators

WVA - WV Public Employees Ins

Current Period: 11/2007 - 11/2007
 Previous Period: 11/2006 - 11/2006

	Current Period	Previous Period	% Change
Period Totals			
Total Plan Cost	\$9,944,640.10	\$17,141,567.07	-42.0 %
Total Plan Cost (Specialty)	\$1,158,822.40	\$1,402,442.21	-17.3 %
Total Member Contribution	\$2,570,938.44	\$3,869,566.23	-33.6 %
Total Member Contrib (Specialty)	\$34,352.19	\$44,255.93	-22.4 %
Total Rx Count	199,568	311,162	-35.9 %
Total Rx Count (Specialty)	696	933	-25.4 %
Total CuraScript Rx Count (Specialty)	609	756	-19.4 %
Total NonCuraScript Rx Count (Specialty)	87	177	-50.8 %
Total Admin Fee	\$10.50	\$3,762.00	-99.7 %
Total UC Savings	\$6,957,668.15	\$10,081,122.94	-31.0 %

Utilization Report by Population Level
 Prescriptions Filled From 11/2007 - 11/2007
 WVA - WV Public Employees Ins



Div Name (Div)	Avg Mar. Count	Avg Util. Mar/Month	Rx Count	Plan Cost	Member Contrib	Plan Cost/Rx	Mail % Rx	Gen % Rx	Form % Rx	Gen Conv %	Pharm Plan Cost
WV PUBLIC EMPLOYEES INSURANCE (WVA)	155,827	70,310	199,568	\$9,944,640	\$12.88	\$49.83	0.9%	69.1%	91.1%	98.6%	\$63.82
Grand Total	155,827		199,568	\$9,944,640	\$12.88	\$49.83	0.9%	69.1%	91.1%	98.6%	\$63.82

Utilization Report by Population Level
 Prescriptions Filled From 11/2007 - 11/2007
 WVA - WV Public Employees Ins

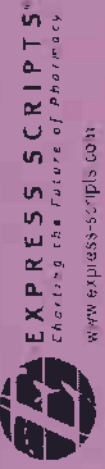


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WV PUBLIC EMPLOYEES INSURANCE (WVA)

Reporting Level 1	Avg Mbr Client	Avg Util Mbr/Month	Rx Client	Plan Cost	Member Count/Rx	Plan Cov/Rx	Mail % Rx	Gen % Rx	Form % Rx	Gen Conv %	MMPI/Plan Cost
STATE (1000)	134,538	61,123	173,195	\$8,682,311.68	\$12.95	\$50.13	0.9%	68.9%	90.9%	98.6%	\$64.53
NON STATE (2000)	20,911	8,992	25,629	\$1,207,601.48	\$12.40	\$47.12	1.0%	71.1%	92.1%	98.9%	\$57.75
COBRA (3000)	378	195	744	\$54,728.94	\$13.31	\$73.56	0.5%	67.3%	89.4%	98.8%	\$144.78
Grand Total	155,827		199,568	\$9,944,640	\$12.88	\$49.83	0.9%	69.1%	91.1%	98.6%	\$63.82

Utilization Report by Population Level
 Prescriptions Filled From 11/2007 - 11/2007
 WVA - WV Public Employees Ins



WV PUBLIC EMPLOYEES INSURANCE (WVA)

Receiving Level 3	Avg Mhr Count	Avg Util Month/yr	Rx Count	Plan Cost	Member Count/Rx	Plan Cost/Rx	Mail % Rx	Gen % Rx	Form % Rx	Gen Conv %	PMPID - Play Cost
STATE AGENCIES (01)	118,469	52,305	143,720	\$7,092,300.96	\$12.86	\$49.35	0.9%	69.2%	90.9%	98.6%	\$59.87
STATE RETIREES (07)	12,654	7,079	27,702	\$1,528,166.05	\$13.06	\$55.16	1.1%	67.0%	91.1%	98.4%	\$120.77
NON STATE AGENCIES (02)	17,763	7,625	21,589	\$1,016,357.18	\$12.21	\$47.08	1.0%	70.9%	91.9%	98.9%	\$57.15
NON STATE RETIREES (08)	890	559	2,011	\$117,363.30	\$11.79	\$58.36	1.9%	69.5%	94.5%	98.4%	\$131.87
NON STATE AGENCIES PLAN B (02B)	2,237	808	2,029	\$73,881.00	\$14.98	\$36.41	0.9%	75.4%	92.2%	99.3%	\$33.03
STATE AGENCIES (01B)	3,411	838	1,768	\$61,752.11	\$18.48	\$34.93	1.5%	73.9%	91.4%	99.1%	\$18.10
COBRA (COBRA)	378	195	744	\$54,726.94	\$13.31	\$73.56	0.5%	67.3%	89.4%	98.8%	\$144.78
STATE RETIREES ASST 60 (0760)	4	1	5	\$92.56	\$4.20	\$18.51	0.0%	100.0%	100.0%	100.0%	\$23.14
NON STATE RETIREES 60 (0860)	1	NA	NA	\$0.00	NA	NA	NA	NA	NA	NA	NA
Grand Total	155,927		199,568	\$9,944,640	\$12.88	\$49.83	0.9%	69.1%	91.1%	98.6%	\$63.82



Monthly Management Report

TOTAL CLAIMS

OCTOBER 2007

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY
MONTHLY MANAGEMENT REPORT - TOTAL CLAIMS
OCTOBER 2007

Page: 1

Reporting Category	Type of Service	Current Period PEIA Payments	Current Rolling Avg PEIA Payments	12 Months Prior PEIA Payments	12 Months Prior Rolling Avg PEIA Payments	Current Fiscal Yr PEIA Payments	Previous Fiscal Yr PEIA Payments
INPATIENT HOSPITAL FACILITY	BEHAVIORAL	129,421.31	159,647.93	155,001.88	139,060.31	538,109.59	593,685.38
	MATERNITY	138,135.99	149,190.85	204,290.87	151,274.62	582,066.67	735,445.66
	MEDICAL AND SURGICAL	6,341,588.36	5,148,005.54	5,139,416.24	4,924,073.97	22,244,403.26	18,288,481.05
	NEONATAL COMPLICATIONS	21,470.63	75,307.89	53,216.17	74,841.08	175,925.18	449,794.46
sum	6,630,616.29	5,532,152.21	5,551,925.16	5,289,249.98	23,540,504.68	20,067,406.55	
OUTPATIENT HOSPITAL FACILITY	BEHAVIORAL	45,888.19	33,883.96	38,388.72	39,594.79	127,941.06	144,459.65
	DIALYSIS	163,699.86	149,791.68	176,447.56	161,590.53	548,760.06	644,893.16
	EMERGENCY ROOM	436,028.89	394,639.56	345,899.13	381,097.39	1,604,793.82	1,316,683.90
	MATERNITY	44,545.66	40,603.16	33,859.87	41,226.40	135,236.04	138,826.49
	MEDICAL AND SURGICAL	6,896,729.91	6,473,486.63	6,055,535.49	6,387,332.22	26,383,673.95	23,568,482.99
sum	7,586,892.51	7,092,205.00	6,650,131.77	7,010,841.34	28,800,404.93	25,813,346.19	
PHARMACY	PRESCRIPTION DRUGS	8,882,944.73	10,148,676.73	9,422,996.88	9,492,749.66	33,486,271.26	35,136,432.63
sum		8,882,944.73	10,148,676.73	9,422,996.88	9,492,749.66	33,486,271.26	35,136,432.63
PROFESSIONAL SERVICES	ADVANCED IMAGING	492,641.72	478,346.91	422,972.93	460,539.08	1,906,079.80	1,665,654.77
	AMBULANCE	163,186.92	172,157.77	169,392.93	155,771.33	730,621.03	552,607.89
	ANESTHESIA	724,187.84	626,218.95	632,637.40	596,041.00	2,748,844.13	2,362,925.73
	BEHAVIORAL	323,492.15	320,458.51	328,525.19	319,553.89	1,102,453.85	1,036,240.51
	CARDIOVASCULAR MEDICINE	321,239.12	358,339.40	344,902.77	372,458.87	1,301,412.83	1,300,907.77
	CERVICAL CANCER SCREENING	20,246.13	22,846.33	25,722.40	29,537.12	92,754.61	111,512.58
	DIALYSIS	2,717.29	7,386.84	11,908.24	15,570.64	21,123.82	43,670.73
	DME	400,857.67	318,306.35	282,504.45	319,540.88	1,410,721.15	1,151,353.55
	EVALUATION AND MANAGEMENT	4,175,956.89	4,110,277.96	3,889,340.47	3,898,960.56	16,250,091.44	15,046,153.86
	IMMUNIZATION	322,294.92	288,100.40	188,538.06	155,723.02	1,252,303.69	572,692.83
	INJECTION	709,867.75	677,678.00	639,036.07	662,756.83	2,735,992.10	2,476,897.22
	LAB AND PATHOLOGY	551,409.52	614,642.84	481,308.76	590,727.81	2,180,705.02	1,873,513.12
	MAMMOGRAPHY	107.96	29,353.51	83,273.42	89,043.01	2,692.54	361,347.48
	OTHER	480,867.13	350,622.41	327,461.57	368,411.77	1,616,291.05	1,326,472.09
	OTHER IMAGING	988,809.33	839,657.59	843,300.34	769,563.46	3,554,977.16	3,019,441.79
	OTHER MEDICINE	915,604.68	640,620.11	842,039.17	593,551.69	3,062,985.80	2,488,583.84
	PHYSICAL MEDICINE	590,724.08	534,070.16	559,735.63	516,928.40	2,048,473.33	1,943,498.16
PROSTATE CANCER SCREENING	10,833.33	15,123.86	11,628.50	16,788.45	51,414.19	54,029.52	
SURGICAL	2,404,517.78	2,337,147.45	2,260,884.21	2,306,387.50	9,320,359.03	8,973,049.90	
sum		13,579,562.21	12,741,355.33	12,325,112.51	12,237,855.11	51,390,296.37	46,360,553.14
sum		36,680,015.74	35,514,389.27	33,950,166.12	34,030,696.08	137,217,477.24	127,377,738.51



Monthly Management Report

PER CAPITA CLAIMS

OCTOBER 2007



Monthly Management Report

PER CAPITA UTILIZATION

OCTOBER 2007

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY
 MONTHLY MANAGEMENT REPORT - PER CAPITA UTILIZATION
 OCTOBER 2007

Page 1

Reporting Category	Type of Service	Current Period Encounters	12 Months Prior Encounters	Current Fiscal Yr Encounters	Previous Fiscal Yr Encounters
INPATIENT HOSPITAL FACILITY	BEHAVIORAL MATERNITY	0.0005	0.0006	0.0002	0.0019
	MEDICAL AND SURGICAL NEONATAL COMPLICATIONS	0.0008	0.0009	0.0003	0.0033
		0.0076	0.0083	0.0013	0.0312
		0.0004	0.0003	0.0001	0.0011
		0.0092	0.0101	0.0391	0.0375
SUM					
OUTPATIENT HOSPITAL FACILITY	BEHAVIORAL DIALYSIS	0.0034	0.0027	0.0107	0.0105
	EMERGENCY ROOM MATERNITY	0.0033	0.0036	0.0121	0.0143
	MEDICAL AND SURGICAL	0.0259	0.0229	0.0926	0.0886
		0.0022	0.0017	0.0074	0.0077
	0.1922	0.1905	0.7978	0.7493	
	0.227	0.2214	0.9206	0.8703	
SUM					
PHARMACY	PRESSCRIPTION DRUGS	0.8126	0.8119	3.3375	3.3084
		0.8126	0.8119	3.3375	3.3084
SUM					
PROFESSIONAL SERVICES	ADVANCED IMAGING	0.023	0.0198	0.0902	0.0794
	AMBULANCE	0.0044	0.004	0.017	0.0134
	ANESTHESIA	0.021	0.019	0.0802	0.0724
	BEHAVIORAL	0.0409	0.0414	0.1577	0.142
	CARDIOVASCULAR MEDICINE	0.0329	0.0314	0.1288	0.123
	CERVICAL CANCER SCREENING	0.0063	0.0073	0.028	0.0332
	DIALYSIS	0.0002	0.0008	0.016	0.0029
	DME	0.0279	0.0233	0.0944	0.085
	EVALUATION AND MANAGEMENT	0.4803	0.4716	1.8604	1.8185
	IMMUNIZATION	0.0416	0.022	0.1042	0.0585
	INJECTION	0.029	0.0259	0.1017	0.0931
	LAB AND PATHOLOGY	0.1679	0.1456	0.6632	0.5845
	MAMMOGRAPHY	0.0001	0.0136	0.0008	0.0578
	OTHER	0.0414	0.0376	0.1369	0.1082
	OTHER IMAGING	0.1156	0.1034	0.4515	0.394
	OTHER MEDICINE	0.0783	0.0793	0.3083	0.3010
	PHYSICAL MEDICINE	0.111	0.117	0.4313	0.4147
	PROSTATE CANCER SCREENING	0.0056	0.0051	0.024	0.0228
	SURGICAL	0.0812	0.0787	0.3227	0.3032
		1.3087	1.2416	5.0029	4.7082
SUM					

West Virginia Board of Risk and Insurance Management
UNAUDITED BALANCE SHEET

DRAFT

	November 30	
	2007	2006
ASSETS		
Short Term Assets		
Cash and Equivalents	\$ 39,215,812	\$ 30,430,669
Advance Deposit with Carrier/Trustee	137,528,766	106,335,288
Receivables - Net	2,757,807	1,586,254
Prepaid Insurance	3,429,506	3,581,325
Total Short Term Assets	182,931,891	141,933,536
Long Term Assets		
Investments	112,075,673	113,596,336
Total Long Term Assets	112,075,673	113,596,336
TOTAL ASSETS	295,007,564	255,529,872
LIABILITIES		
Short Term Liabilities		
Accounts payable	1,278,442	452,501
Claims Payable	92,269	2,657
Agents Commissions Payable	827,169	832,726
Unearned Revenue	13,937,141	15,982,239
Current Estimated Claim Reserve	54,853,556	54,992,290
Total Short Term Liabilities	70,988,577	72,262,413
Long Term Liabilities		
Compensated Absences	200,147	163,620
Estimated Noncurrent Claim Reserve	108,657,526	125,994,041
Total Long Term Liabilities	108,857,673	126,157,661
TOTAL LIABILITIES	179,846,250	198,420,074
Prior Year Net Assets	97,546,877	44,843,685
Current Year Earnings	17,614,437	12,266,113
TOTAL NET ASSETS	115,161,314	57,109,798
TOTAL LIABILITIES AND RETAINED EARNINGS	\$ 295,007,564	\$ 255,529,872

DRAFT - Unaudited - Management Purposes Only

01/02/08

West Virginia Board of Risk and Insurance Management
UNAUDITED INCOME STATEMENT
For the five months ending

DRAFT

	November 30	
	2007	2006
Operating Revenues		
Premium Revenues	\$ 31,448,026	\$ 34,369,113
Less - Excess Insurance	(2,449,647)	(2,558,089)
Total Operating Revenues	<u>28,998,379</u>	<u>31,811,024</u>
Operating Expenses		
Claims Expense	18,920,064	27,155,932
Property & MS Claims Expense	225,450	1,925,590
Personal Services	569,465	533,331
Operating Expenses	1,330,794	1,214,722
Total Operating Expenses	<u>21,045,773</u>	<u>30,829,575</u>
Operating Income	<u>7,952,606</u>	<u>981,449</u>
Nonoperating Revenues		
Court Fees	13,390	10,890
Claim Interest Income	-	189,219
Investment Income	9,648,441	11,084,555
Total Nonoperating Revenues	<u>9,661,831</u>	<u>11,284,664</u>
Net Income	<u>17,614,437</u>	<u>12,266,113</u>

DRAFT - Unaudited - Management Purposes Only

01/02/08

**Department of Administration Leasing Report
For The Period of December 5, 2007 through December 31, 2007**

NEW CONTRACT OF LEASE

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

HHR-161 New contract of lease for 10 years consisting of 9,814 square feet of office space at \$12.45 psf, in the City of Kingwood, Preston County with Jeffrey and Sharon Kiess.

STRAIGHT RENEWALS

FINANCE AND ACCOUNTING

F&A-005 Renewal for 1 year containing 19,173 square feet of office space at the same psf rate of \$9.50, full service, in the City of Charleston, Kanawha County, with the Department of Administration Real Estate Division.

TAX DEPARTMENT

TAX-007 Renewal for 1 year containing 63,297 square feet of office space at the same \$9.50 psf rate, full service in the City of Charleston, Kanawha County, with the Department of Administration Real Estate Division.

TAX-010 Renewal for 1 year containing 3,605 square feet of office space at the same \$14.75 psf rate, full service in the City of Beckley, Raleigh County, with the Department of Administration.

HEALTH AND HUMAN RESOURCES

HHR-133 1 year renewal containing 30,902 square feet of office space at the same \$14.75 psf rate, full service in the City of Beckley, Raleigh County, with the Department of Administration.

DEPARTMENT OF REHABILITATION SERVICES

DRS-069 3 year renewal containing 2,128 square feet of office space at the same \$3.10 psf rate, includes water/sewer and trash, in the City of Sistersville, Tyler County, with Walker Boyd.

RENEWAL/RENT INCREASES

MINERS HEALTH AND SAFETY

MHS-024 Renewal for 3 years containing 1,650 square feet of office space with an increase in rent from \$4.58 psf to \$4.72 psf, in the City of Charleston, Kanawha County with J & H Clark Realty Company.

TAX DEPARTMENT

TAX-051 Renewal for 3 years containing 5,000 square feet of office space with an increase in rent from \$12.17 psf to \$12.90 psf, in the City of Charleston, Kanawha County with Kanawha Realty and Development.

ADDING SQUARE FOOTAGE

TREASURERS OFFICE

STO-007 Added 180 square feet for a total of 1,172 square feet of office space at the same rental rate of \$8.47 psf, full service in the City of Beckley, Raleigh County with Forward Southern WV, Inc.

ADDING SQUARE FOOTAGE WITH RENEWAL

DIVISION OF CORRECTIONS

COR-081 1 year renewal and adding 7 weeks of classroom training to the current lease for a total of 35 weeks of training with an increase in the monthly rent from \$8,500 per month to \$11,500 per month full service, in the City of Ripley, Jackson County, with WV Baptist Conference Center.

BOARD OF TREASURY INVESTMENTS

OPERATING REPORT NOVEMBER 2007

CALENDAR NOTES
6 Month CD Auction
January 9, 2008
Board Meeting
January 11, 2008

Board of Treasury Investments

1900 Kanawha Boulevard East
Suite E-122
Charleston WV 25305
(304) 340-1578
www.wvbt.com

Board of Directors

John D. Perdue,
State Treasurer,
Chairman

Joe Manchin III,
Governor

Glen B. Gainer III,
State Auditor

Martin Glasser,
Esq. Attorney
Appointed by
the Governor

Jack Rossi, CPA
Appointed by
the Governor

Executive Staff

Executive Director
Glenda Probst,
CPA, CTP

Chief Financial Officer

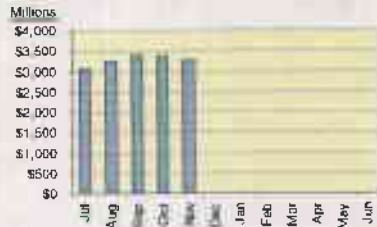
Kara K. Brewer,
CPA, MBA

Total Net Assets Under Management

\$3,260,370,000

Last Month
\$3,364,572,000

Beginning of Fiscal Year
\$2,923,172,000



15.1% Growth This Fiscal Year

Total Net Income & Gains

This Month
\$20,398,000

Fiscal Year
\$80,301,000



Outpacing Last Year

Effective Rates of Return

Time Weighted, Annualized, Net of All Fees

	Nov. 2007	Fiscal Year 2008	Fiscal Year 2007
WV Money Market	4.7%	5.2%	5.4%
WV Gov't Money Market	4.6%	5.2%	5.3%
WV Short Term Bond	6.2% <i>(Past 12 Months)</i>	4.8% <i>(Past 12 Months)</i>	



Returns are annualized fiscal year to date for WV Money Mkt & WV Gov't Money Mkt, past 12 months for WV Short Term Bond

Fiscal Year Return Comparisons

WEST VIRGINIA BOARD OF TREASURY INVESTMENTS
THE ECONOMIC STATE
NOVEMBER 2007

**Economic Growth Highest in Four Years;
Treasury Yields Shift Lower**

The U.S. unemployment rate remained at 4.7% in November, but job growth rose more than expected, up 94,000. October's job growth was revised up to a 170,000 increase. During the third quarter, the U.S. economy grew at a revised 4.9% annual growth rate, the most in four years. The revised pace was a full percentage point stronger than previously estimated. Growth during the third quarter was boosted by increases in exports, consumer spending, and business investment. Consumer spending grew at a 3.0% pace in the third quarter, following a 1.4% increase in the previous quarter, and business investment jumped more than 8.0%. Home construction remained the largest drag on GDP with a 20.1% plunge in homebuilding. Over the past twelve months, consumer prices rose 3.5%, the biggest 12-month increase since August 2006. The core CPI, which excludes food and energy, rose 0.2% for the fifth straight month and 2.2% for the trailing twelve months. The Producer Price Index rose at a slower pace than forecast in October, rising 0.1% after a 1.1% increase in September. Energy costs fell in October due to the timing of the survey after rising 4.1% in September. Excluding food and energy costs, producer prices were unchanged in October. Over the last twelve months, the PPI rose 6.1% and the core PPI rose 2.5%.

The Fed lowered the overnight lending rate at the October 31st meeting by 25 basis points, dropping it to 4.50%, as slowing growth concerns remained at the forefront. The Fed meets next on December 11, 2007 and the market is expecting another 25 basis point cut. For the month of November, the yield curve steepened as yields shifted lower on the short end of the curve. The curve remained slightly inverted on the short end. The 3-month Treasury fell almost 77 bps to 3.14% as the 6-month Treasury dropped 72 bps to 3.35%. The 2-year Treasury yield declined the most, falling 95 bps to 3.00%, while the 5-year Treasury dropped 79 bps to 3.38%. The 10-year Treasury yield fell 53 bps to 3.94% as the 30-year Treasury yield dipped 37 bps to 4.38%, widening the yield spread between the 30-year and the 2-year Treasury to 138 bps.

Ninety-day T-Bills returned 0.47% in November, underperforming the 1.72% return of 1-3 Year Government Bonds. Year-to-date in 2007, 90-Day T-bills have earned 4.71%, while 1-3 Year Government Bonds have returned 7.05%. For the last 12 months, T-bills underperformed with a 5.17% return as 1-3 Year Government Bonds earned 7.08%.

Consolidated Fund Continues Growth

The Board of Treasury Investments continues to grow. Since its inception in July of 2005, the BTI has added over 100 new accounts and has increased its size by nearly \$1 billion. Twenty-three new accounts totaling \$25 million have been added from local governments.

New accounts are opened every month. This is attributed, in part, to presentations and outreach informing local governments of their ability to invest their excess cash in the state's short term investment pools. Word of mouth has had an influence. Many new accounts have been generated by the success of existing accounts. The competitive rate of return and daily access to investment funds are big attractions.

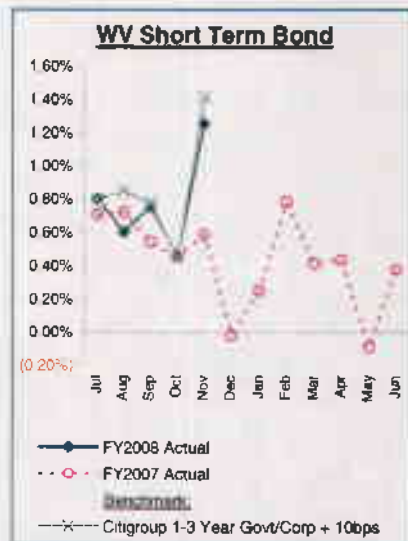
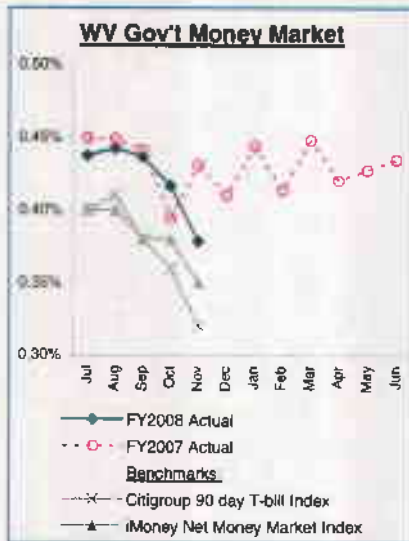
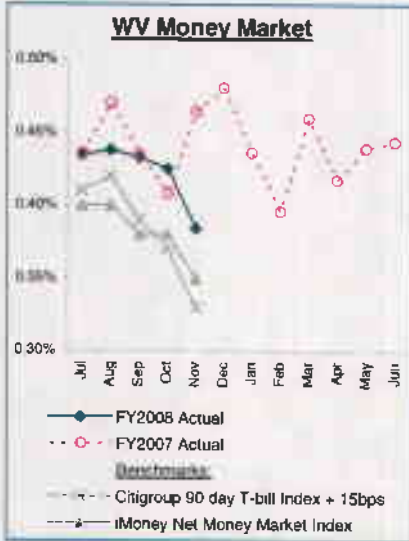
October CD Auction

The BTI offered its first one-year CD auction in October. There were 115 bids received for the \$25 million offering. The competition resulted in \$93,643 of additional interest for the state. The following banks received awards:

BB&T – Charleston	\$5,000,000
Chase Bank – Charleston	\$2,000,000
Fifth Third Bank – Huntington	\$5,000,000
First Community Bank - Bluefield	\$5,000,000
Jefferson Security Bank – Shepherdstown	\$2,000,000
United Bank, Inc. – Parkersburg	\$1,000,000
WesBanco Bank, Inc. – Wheeling	\$5,000,000

West Virginia Board of Treasury Investments Financial Highlights as of November 30, 2007

Monthly Rates of Return for Operating Pools (Net of Fees)



Summary of Value and Earnings (In Thousands)

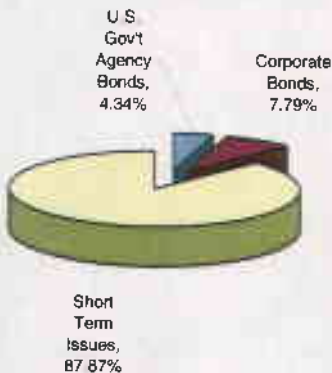
Pool	Asset Value	Nov. Net Income (Loss)	Fiscal YTD Net Income (Loss)
WV Money Market	\$ 2,333,696	\$ 9,487	\$ 49,037
WV Gov't Money Market	233,435	905	4,984
WV Short Term Bond	238,169	3,001	9,110
WV Bank	75,937	374	1,268
Loss Amortization	167,476	5,845	13,199
Loans	132,232	438	889
Participant Accounts	79,425	348	1,814
	<u>\$ 3,260,370</u>	<u>\$ 20,398</u>	<u>\$ 80,301</u>

Percent of Total Net Asset Value

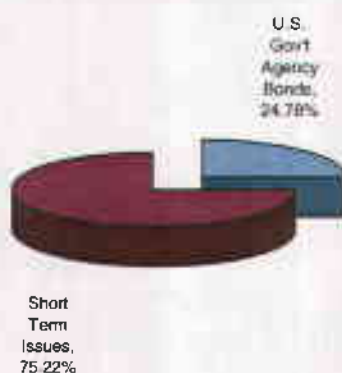


Securities by Type for Operating Pools (Percentage of Asset Value)

WV Money Market



WV Gov't Money Market



WV Short Term Bond



WEST VIRGINIA BOARD OF TREASURY INVESTMENTS
SCHEDULE OF NET ASSETS, OPERATIONS & CHANGES IN NET ASSETS -
UNAUDITED

NOVEMBER 30, 2007

(IN THOUSANDS)

	<u>WV Money Market Pool</u>	<u>WV Government Money Market Pool</u>	<u>WV Short Term Bond Pool</u>	<u>WV Bank Pool</u>	<u>Other Pools</u>	<u>Participant Directed Accounts</u>
Assets						
Investments:						
At amortized cost	\$ 2,329,337	\$ 233,044		\$ 75,000	\$ 131,796	\$ 41,233
At fair value	-	-	\$ 247,130	-	167,476	37,379
Collateral for securities loaned	591,173	45,550	80,700	-	-	-
Other assets	4,586	414	2,071	937	440	814
Total assets	<u>2,925,096</u>	<u>279,008</u>	<u>329,901</u>	<u>75,937</u>	<u>299,712</u>	<u>79,426</u>
Liabilities						
Payable for securities loaned	591,173	45,550	80,700	-	-	-
Other liabilities	227	23	11,032	-	4	1
Total liabilities	<u>591,400</u>	<u>45,573</u>	<u>91,732</u>	<u>-</u>	<u>4</u>	<u>1</u>
Net Assets	<u>\$ 2,333,696</u>	<u>\$ 233,435</u>	<u>\$ 238,169</u>	<u>\$ 75,937</u>	<u>\$ 299,708</u>	<u>\$ 79,425</u>
Investment income						
Interest and dividends	\$ 3,842	\$ 505	\$ 902	\$ 374	\$ 442	\$ 300
Securities lending income	1,913	176	393	-	-	-
Net accretion (amortization)	5,594	395	23	-	546	(20)
Provision for uncollectible loans	-	-	-	-	-	-
Total investment income	<u>11,349</u>	<u>1,076</u>	<u>1,318</u>	<u>374</u>	<u>988</u>	<u>280</u>
Expenses						
Fees	248	24	36	-	4	1
Securities lending borrower rebates	1,616	149	338	-	-	-
Bad debt expense	-	-	-	-	-	-
Total expenses	<u>1,864</u>	<u>173</u>	<u>374</u>	<u>-</u>	<u>4</u>	<u>1</u>
Net investment income	<u>9,485</u>	<u>903</u>	<u>944</u>	<u>374</u>	<u>984</u>	<u>279</u>
Net realized gain (loss)						
from investments	2	2	476	-	-	-
Net increase (decrease)						
in fair value of investments	-	-	1,581	-	5,299	69
Net gain (loss) from investments	<u>2</u>	<u>2</u>	<u>2,057</u>	<u>-</u>	<u>5,299</u>	<u>69</u>
Net increase (decrease) in net assets from operations	<u>9,487</u>	<u>905</u>	<u>3,001</u>	<u>374</u>	<u>6,283</u>	<u>348</u>
Distributions to participants	<u>9,487</u>	<u>905</u>	<u>1,420</u>	<u>375</u>	<u>438</u>	<u>-</u>
Participant activity						
Purchases, reinvestment of units and contributions	595,152	24,784	1,547	375	1,595	200
Redemptions and withdrawals	693,773	35,346	-	-	-	6,508
Inter-pool transfers in	25,680	-	-	-	-	-
Inter-pool transfers out	-	-	-	25,680	-	-
Net increase (decrease) in net assets from participant activity	<u>(72,941)</u>	<u>(10,562)</u>	<u>1,547</u>	<u>(25,305)</u>	<u>1,595</u>	<u>(6,308)</u>
Increase (decrease) in net assets	<u>(72,941)</u>	<u>(10,562)</u>	<u>3,128</u>	<u>(25,306)</u>	<u>7,440</u>	<u>(5,960)</u>
Net assets at beginning of period	<u>2,406,637</u>	<u>243,997</u>	<u>235,041</u>	<u>101,243</u>	<u>292,268</u>	<u>85,385</u>
Net assets at end of period	<u>\$ 2,333,696</u>	<u>\$ 233,435</u>	<u>\$ 238,169</u>	<u>\$ 75,937</u>	<u>\$ 299,708</u>	<u>\$ 79,425</u>

Joint Committee on Government and Finance

January 2008

Department of Health and Human Resources

MEDICAID REPORT

The Medicaid report contains data from the first quarter of the current fiscal year because of the timing/availability of data. To accurately reflect claim experience, the Bureau for Medical Services uses the most current data available. For example, claims for October are entered into the system through December. The claims information for the month of October will be available in mid-January.

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR MEDICAL SERVICES
MEDICAID CASH REPORT
SFY2008

QUARTER ENDING SEPTEMBER 2007

REVENUE SOURCES

Beg. Bal. (5084/1020 prior mth)

MATCHING FUNDS

General Revenue (0403/188)
 Rural Hospitals Under 150 Beds (0403/940)
 Tertiary Funding (0403/547)
 Lottery Walver (Less 550,000) (5405/539)
 Lottery Transfer (5405/871)
 Trust Fund Appropriation (5185/189)
 Provider Tax (5090/189)
 Certified Match
 Reimbursables - Amount Reimbursed
 Other Revenue (MWIN, Escheated Warrants, etc.) 5084/4010 & 4015
 CMS - 64 Adjustments

TOTAL MATCHING FUNDS

FEDERAL FUNDS

TOTAL REVENUE SOURCES

TOTAL EXPENDITURES:

Provider Payments

TOTAL

	ACTUALS 7/1/07 Thru 9/30/07	ACTUALS Year-To-Date Thru 9/30/07	PROJECTED 10/1/2007 Thru 06/30/08	TOTAL SFY2008
	26,493,079	\$26,493,079		\$26,493,079
	78,741,138	78,741,138	314,964,549	393,705,887
	649,001	649,001	1,946,999	2,596,000
	1,214,000	1,214,000	3,642,000	4,856,000
	6,450,000	6,450,000	16,822,578	23,272,578
	2,500,000	2,500,000	7,800,000	10,300,000
	0	0	30,556,594	30,556,594
	36,450,000	36,450,000	118,850,072	155,300,072
	6,411,180	5,905,683	16,649,877	22,555,560
	1,088,084	1,088,084	2,709,087	3,797,151
	66,521	66,521	(66,521)	0
	0	(2,052,195)	2,052,195	0
	\$160,082,983	\$157,505,291	\$515,927,430	\$673,432,721
	\$390,622,202	\$390,622,202	\$1,335,389,120	1,726,011,323
	\$550,685,185	\$548,127,494	\$1,851,316,550	\$2,399,444,044
	\$544,688,788	\$542,989,315	\$1,829,412,907	\$2,372,402,222
	\$6,116,417	\$5,138,178		\$27,041,822

Note: FMAP (07 - 72.62% applicable July - Sept. 2007) (08 - 74.25% applicable Oct. 2007 - June 2008)

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
 BUREAU FOR MEDICAL SERVICES
 EXPENDITURES BY PROVIDER TYPE
 SFY2008

QUARTER ENDING SEPTEMBER 2007	TOTAL	TOTAL	ESTIMATED	TOTAL	ACTUALS	PROJECTED
	SFY2007	SFY2008	Current Quarter July-Sept 2007	Quarterly CMS-64 July-Sept 2007	Year To-Date Thru 09/30/07	10/01/07 Thru 08/30/08
EXPENDITURES:						
Inpatient Hospital Services	228,282,408	229,604,866	57,483,272	43,078,704	43,078,704	188,728,181
Inpatient Hospital Services - DSH Adjustment Payments	54,098,037	54,331,200	13,882,800	18,291,209	18,291,209	39,039,891
Mental Health Facilities	40,280,781	42,231,854	10,887,425	9,887,688	9,887,688	32,544,268
Mental Health Facilities - DSH Adjustment Payments	18,924,239	18,811,200	4,702,800	4,721,761	4,721,761	14,089,439
Nursing Facility Services	413,063,985	437,881,837	109,981,289	107,337,481	107,337,481	330,544,176
Intermediate Care Facilities - Public Providers	-	-	-	-	-	-
Intermediate Care Facilities - Private Providers	69,706,822	81,221,903	18,320,700	13,530,660	13,530,660	47,691,243
Physicians Services ***	128,812,952	131,876,987	33,883,250	28,691,374	28,691,374	104,984,614
Outpatient Hospital Services	98,278,923	105,488,915	26,402,050	25,785,838	25,785,838	79,700,078
Prescribed Drugs	305,342,895	340,245,439	85,452,350	77,768,491	77,768,491	282,478,948
Drug Rebate Offset - National Agreement	(93,163,811)	(85,011,600)	(21,168,032)	(23,356,898)	(23,356,898)	(61,855,005)
Drug Rebate Offset - State Sidebar Agreement	(31,467,242)	(30,218,400)	(7,524,382)	(8,939,704)	(8,939,704)	(23,278,698)
Dental Services ***	37,032,509	39,608,038	9,924,675	9,384,618	9,384,618	30,241,419
Other Practitioners Services	20,319,941	21,707,687	5,540,060	8,083,821	8,083,821	13,853,846
Clinic Services	38,178,813	38,839,490	9,847,550	10,461,118	10,461,118	28,078,372
Lab & Radiological Services	7,948,608	8,697,864	2,210,225	1,899,388	1,899,388	8,798,456
Home Health Services	27,888,972	31,413,779	7,991,875	8,834,978	8,834,978	24,758,801
Hysterectomies/Sterilizations	571,681	628,069	157,200	113,893	113,893	814,078
Pregnancy Terminations	-	-	-	-	-	-
EPSDT Services	2,458,929	2,699,948	875,028	573,849	573,849	2,123,399
Rural Health Clinic Services	8,802,490	7,245,819	1,819,425	1,274,890	1,274,890	6,970,929
Medicare Health Insurance Payments - Part A Premiums	18,768,356	17,886,200	4,398,550	4,298,308	4,298,308	13,289,892
Medicare Health Insurance Payments - Part B Premiums	62,881,209	70,281,400	17,570,350	18,864,839	18,864,839	63,716,861
120% - 134% Of Poverty	3,492,445	-	-	988,332	988,332	(988,332)
135% - 175% Of Poverty	-	-	-	-	-	-
Coinurance And Deductibles	-	-	-	-	-	-
Medicaid Health Insurance Payments: Managed Care Organizations (MCO)	241,130,288	264,823,200	63,730,800	61,324,303	61,324,303	183,898,897
Medicaid Health Insurance Payments: Group Health Plan Payments	360,068	482,900	120,725	78,884	78,884	403,046
Home & Community-Based Services (MR/DD)	200,536,722	230,116,182	57,538,100	55,504,867	55,504,867	174,611,316
Home & Community-Based Services (Aged/Disabled)	68,417,341	89,132,818	22,283,204	18,983,681	18,983,681	73,149,134
Community Supported Living Services	38	-	-	-	-	-
Programs Of All-Inclusive Care Elderly	-	-	-	-	-	-
Personal Care Services	38,793,019	40,243,200	10,080,800	9,839,268	9,839,268	30,603,812
Targeted Case Management Services	7,600,004	8,609,312	2,171,880	1,634,622	1,634,622	6,974,890
Primary Care Case Management Services	738,686	882,800	220,700	188,182	188,182	698,638
Hospice Benefits	9,738,788	10,297,200	2,874,300	2,458,705	2,458,705	7,838,485
Emergency Services Undocumented Aliens	-	-	-	-	-	-
Federally Qualified Health Center	18,204,205	17,622,314	4,408,375	3,232,862	3,232,862	14,289,452
Other Care Services	126,149,163	138,183,348	34,229,493	31,810,626	31,810,626	104,672,722
Less: Recoupments	(1)	-	-	-	-	-
NET EXPENDITURES: (Line 6 on CMS-64)	2,137,739,218	2,333,236,637	585,441,464	638,473,701	638,473,701	1,787,762,636
Collections: Third Party Liability (Line 9A on CMS-64)	(4,618,212)	-	-	(1,103,401)	(1,103,401)	1,103,401
Collections: Probate (Line 9B on CMS-64)	(98,485)	-	-	(40,849)	(40,849)	40,849
Collections: Identified through Fraud & Abuse Effort (Line 9C on CMS-64)	(389,328)	-	-	-	-	-

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
 BUREAU FOR MEDICAL SERVICES
 EXPENDITURES BY PROVIDER TYPE
 SFY2008

QUARTER ENDING SEPTEMBER 2007	TOTAL SFY2007	TOTAL SFY2008	ESTIMATED Current Quarter July-Sept 2007	TOTAL Quarterly CMS-84 July-Sept 2007	ACTUALS Year To-Date Thru 09/30/07	PROJECTED 10/01/07 Thru 09/30/08
Collections: Other (line 9D on CMS-84)	(8,868,888)			(788,131)	(788,131)	788,131
NET EXPENDITURES and CMS-84 ADJUSTMENTS:	2,128,067,248	2,333,238,637	885,441,484	833,643,320	833,643,320	1,789,893,317
Plus: Medicaid Part D Expenditures	28,577,768	31,440,000	7,880,000	7,483,188	7,483,188	23,948,835
Plus: State Only Medicaid Expenditures	4,657,827	3,928,434	982,108	1,088,280	1,088,280	2,873,174
TOTAL MEDICAID EXPENDITURES	2,169,202,843	2,386,606,071	894,283,572	842,091,745	842,091,745	1,828,513,326
Plus: Reimbursables ⁽¹⁾	3,273,887	3,797,151	949,288	697,670	897,570	2,809,881
TOTAL EXPENDITURES	2,162,478,230	\$2,372,402,222	895,232,860	\$842,989,315	\$842,989,315	\$1,829,412,907

(1) This amount will revert to State Only if not reimbursed.

*** CMS is currently reviewing portions of these payments. Until review is completed these expenses will be classified as state-only on the CMS-84. With all outside reviews, there is a potential for a portion of these costs to remain state-only if any of them are disallowed.

BUREAU FOR MEDICAL SERVICES
SFY 2007 Medicaid Approved Claims Report
As of November 15, 2007

REF#	CMS 64 Category Of Service	SFY 2007	SFY 2008 Tentative			YTD Totals JUL-SEP 2007
			200707	200708	200709	
1A	Inpatient Hospital Services	229,365,525	16,081,646.78	12,888,375.21	16,378,481.49	45,428,483
1B	Inpatient Hospital Services - DSH	54,220,771	0.00	15,322,603.00	0.00	15,322,603
2A	Mental Health Facilities	40,628,759	3,014,542.58	3,390,028.32	3,904,202.66	10,308,772
2B	Mental Health Facilities - DSH	18,800,405	0.00	4,890,367.00	0.00	4,690,367
3	Nursing Facility Services	405,794,188	33,445,596.59	35,875,301.48	35,166,759.56	104,487,658
4B	Intermediate Care Facilities - Private Providers	58,697,741	4,759,140.96	4,476,718.71	4,600,723.41	13,636,583
5	Physicians Services	122,327,648	9,787,198.24	8,384,673.59	9,537,389.38	27,689,259
6	Outpatient Hospital Services	100,870,576	7,585,793.31	9,913,036.63	9,932,141.39	27,430,971
7	Prescribed Drugs	317,302,910	25,445,077.87	27,330,955.01	25,869,146.76	78,645,180
7	Part D Premium - State Only	28,577,768	2,488,974.25	2,496,301.15	2,509,689.75	7,493,165
7A1	Drug Rebate Offset - National	(93,411,318)	(16,561,981.84)	(774,332.00)	(6,927,050.00)	(23,263,364)
7A2	Drug Rebate Offset - State	(31,239,277)	(6,607,424.76)	(382,902.00)	(22,950.00)	(7,013,277)
///	Total Rebates	(124,650,595)	(23,169,406.60)	(1,157,234.00)	0.00	(30,276,641)
///	NET DRUG COST	221,230,083	4,762,646	28,670,022	0.00	55,861,704
8	Dental Services	37,946,980	3,020,273.53	3,508,540.19	2,975,132.77	9,501,948
9	Other Practitioners Services	20,762,927	4,671,358.76	1,748,194.88	1,778,299.97	8,197,854
10	Clinic Services	35,142,939	3,220,304.97	1,994,166.91	1,344,723.12	6,559,195
11	Lab & Radiological Services	16,150,843	644,152.72	640,163.64	707,930.28	1,992,247
12	Home Health Services	28,658,463	1,904,110.63	2,444,272.84	2,712,874.71	7,061,258
13	Hysterectomies/Sterilizations	560,115	39,881.59	30,036.45	40,343.11	110,261
14	Pregnancy Termination	220,178	28,496.02	17,725.28	12,588.95	58,820
15	EPSDT Services	2,450,918	181,832.68	217,221.54	272,328.06	671,382
16	Rural Health Clinic Services	6,698,466	392,546.33	474,345.79	538,397.00	1,405,288
17A	Medicare - Part A Premiums	15,465,910	0.00	2,879,128.00	1,453,726.00	4,332,854
17B	Medicare - Part B Premiums	61,496,992	0.00	11,710,688.50	5,920,838.30	17,631,527
18A	Managed Care Organizations	257,900,658	1,138,250.55	22,054,852.53	40,477,833.12	63,670,736
18C	Group Health Plan Payments	329,728	28,650.18	47,339.73	45,719.42	121,709
19	Home & Community-Based Services (MR/DD)	201,156,249	17,820,044.71	18,782,547.08	18,467,264.94	55,069,847
20	Home & Community-Based Services (Aged/Disabled)	56,505,657	5,018,000.97	5,839,534.80	5,298,586.97	16,156,123
23	Personal Care Services	35,989,302	3,000,305.63	3,388,185.81	3,167,282.53	9,553,774
24	Targeted Case Management	7,850,998	585,019.91	537,550.56	604,394.68	1,726,966
25	Primary Care Case Management	800,139	0.00	62,133.00	123,408.00	185,541
26	Hospice Benefits	9,991,391	979,918.29	859,090.94	609,373.39	2,448,383
28	Federally Qualified Health Center	15,469,568	1,155,139.14	1,476,050.77	1,393,557.88	4,024,748
29	Other Care Services	111,853,165	9,389,687.32	9,750,458.26	9,620,442.81	28,760,588
	Unclassified	211,844	0.00	0.00	0.00	0
///	TOTALS	2,175,445,938	132,654,534.89	212,129,151.58	199,513,760.57	544,297,446

This report's data is prepared based on claims received and approved for payment (Modified Accrual basis of Accounting). Therefore, the data presented in this report will not match the CMS-64 Quarterly Reports which are prepared on a cash basis.

**Governor's Pharmaceutical Advocate Office
WV Pharmaceutical Cost Management Council
Presentation to the Joint Committee on
Government and Finance**

January 8, 2008



Why is reporting necessary?

- **H.B. 4084, the Pharmaceutical Availability and Affordability Act, created the West Virginia Pharmaceutical Cost Management Council in 2004.**
- **W.Va. Code 5A-3C-13 directs the Council to promulgate a rule to collect pharmaceutical advertising data**
- **The statute states that the data will enable the state to determine the scope of advertising costs and aide the state in purchasing drugs effectively.**



Who must report?

- All drug manufacturers and/or labeler whose prescription drugs are dispensed in West Virginia or to a West Virginia resident.
- 5A-3C-3 (4) "Drug Manufacturer" or "pharmaceutical manufacturer" means any entity which is engaged in (A) the production, preparation, propagation, directly or indirectly by extraction from substances of natural origin, or independently by means of chemical syntheses or by a combination of extraction and chemical syntheses; or (B) the packaging, repackaging, labeling, relabeling or distribution of prescription drug products. "Drug manufacturer" or "pharmaceutical manufacturer" does not include a wholesale distributor of drugs or a retail pharmacy licenses under state law.
- 5A-3C-3 (7) "Labeler" means an entity or person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal Food and Drug Administration pursuant to 21 CFR §207.20 (1999)



What must be reported? Payments to Prescribers

- The Company must list the total number of West Virginia prescribers provided directly or indirectly, gifts, grants, or payments of any kind in excess of \$100 for the purpose of advertising prescription drugs
- Annual payments in excess of \$100 must be reported in increments of \$2,500 until all payments to providers made by the company are reported



What Must Be Reported? Payments to Prescribers Table

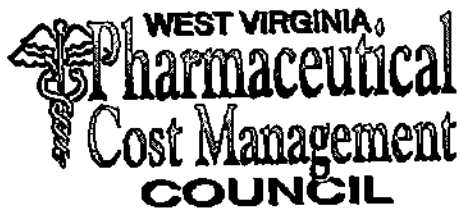
Annual aggregate amount of fees, food, entertainment, recreational activities, travel expenses, gifts, grants or other payments	Total Number of Prescribers



What must be reported? Direct-to-Consumer Advertising

- The name of any prescription drugs advertised using DTC advertising reaching or targeting West Virginia, the type of advertising used and the total amount spent
- For national and regional media buys, the Company should report WV's share by the following formula:

Total spent x (population of target area/population of WV) = WV share



What must be reported? Direct-to-Consumer Table

Name of Drug (chemical name and brand name)	Type of Advertising	Total Expenditure on Advertising



What must be reported? Payments to Patient Support or Advocacy Groups

Company must list the name of any disease-specific patient support or advocacy group operating in West Virginia which received directly or indirectly gifts, grants, or payments of any kind totaling \$10,000 or more for the purpose of advertising prescription drugs



What must be reported? Payments to Patient Support or Advocacy Group Table

Name of Advocacy Group	Amount of Annual Payments



What Must be Reported? Payments to Pharmacies

- Company must list the name of any pharmacy licensed in West Virginia which received directly or indirectly gifts, grants, or payments of any kind totaling \$10,000 or more for the purpose of advertising prescription drugs



What Must be Reported? Payments to Pharmacies Table

Pharmacy	Type of Advertising	Amount of Payment



What is exempted from reporting?

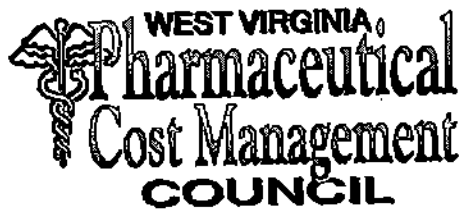
- Companies may but are not required to report the following exempted information described in 5A-3C-13(c)
 - Free samples intended for patients
 - Payments, compensation and reimbursement in connection with a “bona-fide” clinical trial
 - Scholarship or other support for medical students, residents and fellows to attend significant education, scientific or policy-making conferences



When and where is the report due?

- **First report is due March 1, 2008 for period from July 1, 2007 to December 31, 2007. Reports due each year thereafter on April 1 for the preceding calendar year**
- **For first report, all reporting thresholds are prorated to reflect the 6-month period**
- **Report shall be mailed to:**

**West Virginia Pharmaceutical Cost Management Council
c/o West Virginia Department of Administration
Capitol Complex, 1900 Kanawha Boulevard, East
Charleston, West Virginia 25305**



Where can the statute and rule be found?

- Pharmaceutical Availability and Affordability Act

www.legis.state.wv.us/WVCODE/05a/masterfrmFrm.htm

- Title 206 Series 1, Prescription Drug Expense Reporting

www.wvsos.com/adlaw/emergency/206-01era.pdf



Who can answer questions?

- Shana Phares, Pharmaceutical Advocate and Designated Chair, Pharmaceutical Cost Management Council
304-558-0079 or sphares@wv.gov
- Bill Hicks, Assistant General Counsel, Department of Administration and Counsel to the Pharmaceutical Cost Management Council
304-558-4331 or bhicks@wvadmin.gov

**Governor's Pharmaceutical Advocate Office
WV Pharmaceutical Cost Management Council**

2007 Annual Report

January 8, 2008

2007 Annual Report of the West Virginia Pharmaceutical Cost Management Council

Authority to Act

§5A-3C-8 (8) The Council shall report to the Legislature's joint committee on government and finance on or before the first day of September, two thousand four and on or before the thirty-first day of December, two thousand four and annually thereafter to the Legislature and provide recommendations to the Legislature on needed legislative action and other functions established by the article or requested by the joint committee on government and finance of the Legislature;

Executive Summary

This annual report details actions taken by the West Virginia Pharmaceutical Cost Management Council for calendar year 2007. The topics include the promulgation of advertising reporting rules, update on ongoing activities, evaluation of pending federal 340b legislation, consideration of the proposed regulation of pharmacy benefits managers, and review of federal and state requirements for tamper-resistant prescription pads.

The Council met seven times during calendar year 2007. Minutes of each meeting are attached in **Appendix A**.

Advertising Reporting Rule

Authority to Act

§5A-3C-13 (b) The Council shall establish, by legislative rule, the reporting requirements of information by labelers and manufacturers which shall include all national aggregate expenses associated with advertising and direct promotion of prescription drugs through radio, television, magazines, newspapers, direct mail and telephone communications as they pertain to residents of this state.

On January 17, 2007, the Council voted to accept technical changes made to the advertising reporting rule by the Legislative Rulemaking Review Committee. On February 1, 2007, the Council held a special meeting to consider a technical error to the filed emergency rule and the regular legislative rule. Rather than being filed under the West Virginia Pharmaceutical Cost Management Council, the rule was filed under the Pharmaceutical Advocate's Office which does not have rulemaking authority. This error

aroused sufficient concern and the Council voted to withdraw both the emergency rule and the regular rule and refile both at a later date.

On April 17, 2007, the Council voted to refile the emergency rule and the regular rule as modified by the Legislative Rulemaking Review Committee with two changes: 1) the annual threshold for reporting payments to providers was lowered from \$1,000 to \$100 and the initial reporting period was set for July 1, 2007 to December 1, 2007 with the first reporting date of March 1, 2008.

On June 14, 2007, the Council learned that the Secretary of State's Office accepted the advertising reporting rule as an emergency rule. During that meeting, the Council reviewed the public comments received on the regular legislative rule. **(Public comments are attached at Appendix B)**

The Council accepted the comment from a consumers' coalition that rather than have the final reporting category for payments to providers be \$10,000 and above, that it should be extended in \$2,500 increments until all payments are reported.

The Council also accepted the comment from Bio and PhRMA that the reporting of payments to patient advocacy groups be limited to groups operating in West Virginia.

The emergency rule was withdrawn and refiled to reflect these modifications and the legislative rule was filed as a modified agency approved rule to reflect these changes. **(Appendix C)** The Secretary of State approved the amended emergency rule on August 22, 2007.

It is anticipated that the Legislative Rulemaking Review Committee will take up the advertising reporting rule during the January 2008 interim session.

Group Purchasing Arrangements

In 2006, the West Virginia Pharmaceutical Cost Management Council used its exemption from state purchasing statute and regulations to enter two group buying organizations on behalf of qualifying state and county agencies.

The Minnesota Multi-State Contracting Alliance for Pharmacy (MMCAP) is a voluntary purchasing consortium of 44 states and the City of Chicago. States become members and enroll MMCAP-eligible facilities. To enroll in MMCAP, facilities must be eligible to purchase from a state contract.

The two state psychiatric hospitals, the state acute care hospital, the state rehabilitation hospital, the state police, the state family planning program and thirty-four local health departments enrolled in MMCAP during 2007. A financial analysis of the effectiveness of this group buying endeavor will be completed in early 2008.

The second group buying organization entered is the 340b Prime Vendor Program. The Veteran's Healthcare Act of 1992 created a public health prescription drug pricing program called 340b. Through the 340b program, a variety of entities who receive federal funding can access this pricing program. Eligible entities include, but are not limited to, federally-qualified health centers (FQHCs), certain disproportionate share hospitals (DSH), hemophilia treatment centers (HTCs), AIDS drug assistance programs (ADAP) and family planning programs. 340b prices are a maximum of 51% below average wholesale prices (AWP) and approximately 18% below Canadian retail prices.

The federal Office of Pharmacy Affairs in the Department of Health and Human Services conducts a competitive and open bid process to contract with one vendor to purchase drugs on behalf of 340b eligible programs nationwide. The prime vendor program uses the collective purchasing power of the 340b entities to expand the number of pharmaceuticals available at sub-340b prices.

The West Virginia Family Planning Program in the Office of Maternal, Child and Family Health, Bureau for Public Health, Department of Health and Human Resources experience vast price changes in available contraceptives. As part of the program's search for more efficient and reliable ways of purchasing contraceptives, it asked the Pharmaceutical Cost Management Council to enter the 340b Prime Vendor Program. The Council and the Office of the Pharmaceutical Advocate worked closely with the Family Planning Program to fulfill all the documentation requirements for entry into the prime vendor program. The effectiveness of this arrangement will be evaluated in early 2008.

Central Fill Pharmacy

The Central Fill Pharmacy Board met throughout 2007. The Board completed documentation to become an independent nonprofit organization and developed a full budget. The Board devoted extensive time and effort which materially contributed to moving the Central Fill Pharmacy from a concept to a reality. It is expected that the capacity to deliver affordable and appropriate pharmaceutical products to thousands of uninsured and/or low-income West Virginians will emerge in early 2008.

Electronic Prescribing

Authority to Act

§5A-3C-8 (8) The Council shall report to the Legislature's joint committee on government and finance on or before the first day of September, two thousand four and on or before the thirty-first day of December, two thousand four and annually thereafter to the Legislature and provide recommendations to the Legislature on needed legislative action and other functions established by the article or requested by the joint committee on government and finance of the Legislature;

In December 2007, as a result of its investigation of electronic prescribing, the Council recommended to the West Virginia Legislature that full consideration be given to legislation which would permit electronic prescribing. Governor Manchin introduced such a bill as part of his legislative package and the Legislature passed the bill. Governor Manchin signed Senate Bill 1001 into law on April 2, 2007.

The Pharmaceutical Advocate and the West Virginia Health Information Network worked closely with the new executive director of the Board of Pharmacy to develop the necessary legislative rules to allow electronic prescribing. At this writing, those rules are expected to be filed as emergency rules by the end of December 2007.

The 340b Program Improvement and Integrity Act of 2007 (S.1376/H.R.2606)

As outlined earlier in this report, Congress established the 340b Drug Pricing Program under the Veterans' Health Care Act of 1992 (Public Law 102-585). The program provides special drug pricing to safety net providers to maintain and enhance access to health care services.

The 340b Program Improvement and Integrity Act of 2007 (S.1376/H.R.2606) would extend 340b drug discounts to the inpatient settings of eligible hospitals (currently only drugs given in outpatient settings are eligible) and would extend 340b pricing to new categories of hospitals. Currently, nine hospitals in West Virginia participate in the 340b program. The pending federal legislation would make thirty-three hospitals eligible. The West Virginia Hospital Association prepared a list of eligible hospitals and an estimate of savings for each hospital. **(The list of hospitals and estimated savings is attached at Appendix D)**

Charleston Area Medical Center (CAMC) presented an outline of the pending legislation and how it would affect CAMC and other hospitals. CAMC requested that the Council endorse the legislation.

PhRMA commented that greater oversight of the 340b program is needed; but the official position of the association on the pending legislation is neutral.

At the October 16, 2007 meeting, the Council voted by consensus to endorse the legislation and send correspondence to members of the West Virginia congressional delegation requesting they co-sponsor bills in their respective houses. **(Appendix E)** At the writing of this report, Congressman Nick Jo Rahall responded in the affirmative. **(Appendix F).**

Pharmacy Benefit Manager (PBM) Regulation

Authority to Act

§5A-3C-8 (8) The Council shall report to the Legislature's joint committee on government and finance on or before the first day of September, two thousand four and on or before the thirty-first day of December, two thousand four and annually thereafter to the Legislature and provide recommendations to the Legislature on needed legislative action and other functions established by the article or requested by the joint committee on government and finance of the Legislature;

Pharmacy Benefit Managers (PBMs) serve as large brokers for insurance providers. PBMs may offer a wide variety of services, but most commonly negotiate rebate arrangements with manufacturers, establish and manage formularies, establish payment rates for participating pharmacies and process and analyze prescription drug claims. As such PBMs use their collective buying power to obtain low drug prices; however, anecdotal litigation between commercial insurers and PBMs raise concerns that PBMs may keep excessive profits through non-transparent contract arrangements and may act in ways that are not in the best interests of their customers, or commercial insurance companies.

During the last regular session of the West Virginia Legislature it considered the H.B. 4656, the Pharmacy Benefit Manager Licensing and Regulation Act. This act seeks to establish standards and criteria for the licensing and regulation of Pharmacy Benefit Managers and includes the filing of "copies of all contracts with insurers, pharmaceutical manufacturers or other persons utilizing the services of the Pharmacy Benefit Manager for pharmacy benefit management services."

At its October 16, 2007 meeting, Terry Lantanich, Consultant, Pharmaceutical Care Management Association presented to the Council on the proposed PBM regulation proposal.

Mr. Lantanich reported that: 1) more than 210 million Americans receive pharmacy benefits through PBMs; 2) PBMs estimated to manage \$204 billion in drug expenditures in 2008 and 3) PBMs estimated to reduce prescription drug costs by 20 percent compared to retail purchases with no pharmacy benefit manager.

Mr. Lantanich said that in 2007 alone, 19 states have considered and rejected legislation that would impose restrictions on PBMs.

Randi Reichel, a consultant with America's Health Insurance Plans also presented to the Council at the October meeting. Ms. Reichel said state regulation would be an unnecessary intrusion into health insurers' negotiations with the PBMs. She stated that

insurers did not believe the industry needed this kind of assistance. Further, if PBMs were required to file contracts negotiated with insurers with a governmental agency, it may adversely impact the prescription drug coverage insurers could offer to their subscribers.

Tim Murphy, Attorney Supervisor with the WV Insurance Commission. Mr. Murphy informed the Council that PBMs sometimes voluntarily register as third party administrators (TPAs) with the Commission. This enables the Commission to investigate complaints against PBMs and the Commission can use both administrative and civil monetary penalties against PBMs if the investigation reveals misconduct.

Over the next two months, the Council with the Insurance Commission, contacted the two states which enacted PBM regulation requiring PBMs to file contracts with a government entity - the State of South Dakota and the State of Maine. Neither state could offer data or testimony on the effect of the legislation - positive or negative - on the availability and/or affordability of prescription drug coverage. The National Association of Insurance Commissioners was also requested to share any data or analysis of these statutes; such information is not available.

At its December meeting, the Council elected to continue to seek analysis of the effects of PBM transparency regulation before making any recommendation to the legislature.

Tamper-resistant prescription drug pads

At its December 18, 2007 meeting, the Council investigated the possible effects of the federal requirement that all Medicaid prescriptions be written on tamper-resistant drug pads effective April 1, 2008.

Peggy King, Pharmacy Director for Medicaid reviewed the federal requirement and the federal standards for tamper-resistant pads. The tamper-resistant requirements apply to handwrite prescriptions, not those emailed, faxed or phoned in. **(Appendix G)**.

John Harden of Standard Register, a vendor which serves states which have a statewide requirement that all controlled substances be written on tamper-resistant pads presented the following data:

1. Based on 2005 data the Kaiser Family Foundation estimates that West Virginia Medicaid program experiences between \$3.4 and \$11.28 million annually in prescription drug fraud;

2. A 2007 SAMSHA report lists West Virginia as having the 7th highest rate of abuse of prescription drug pain relievers by teens at 8.9% (<http://www.mediacampaign.org/teens/brochure.pdf>);
3. Working on the data from the New York experience, West Virginia could be expected to save \$25,937,778 statewide per year if it adopted tamper-resistant drug pads for controlled substances.

The West Virginia Pharmacists Association and the West Virginia State Medical Association both shared concerns with complying with the new federal statute. More information will be gathered and the Council will explore this issue further at its first meeting in 2008. (**Appendix G - Tamper-resistant prescription pad presentations**).

Conclusion

During calendar year 2007, the Council redoubled its efforts to fulfill the statutory requirement to promulgate an advertising and reporting rule. The Secretary of State and her staff provided invaluable assistance in this process. As in 2006, legislative staff also lent guidance in regard to the legislative rulemaking process. The Council appreciates the assistance of these professionals.

In 2008, the Council will:

- assess the effectiveness of the group-buying agreements it entered on behalf of the state;
- examine how it can use its purchasing exemption to assist other state agencies, how to make available the 340b and other low-cost drug programs to a greater number of West Virginians;
- redouble its efforts to communicate with other states to explore new and innovative ways to lower drug costs;
- interact more closely with consumers around the state to assess pharmaceutical issues; and
- work to further fulfill the remaining provisions of its statutory mandate.

Appendices

- Appendix A Minutes of all Council meetings for calendar year 2007
- Appendix B Public Comments in response to the Proposed Advertising Reporting Rule
- Appendix C Amended Emergency Advertising Reporting Rule and Amended Agency Approved Rule
- Appendix D West Virginia Hospital Association estimates of individual hospital savings from The 340b Program Improvement and Integrity Act of 2007 (S.1376/H.R.3606)
- Appendix E Letter to Congressional Delegation requesting co-sponsorship of (S.1376/H.R.3606)
- Appendix F Letter from Congressman Rahall announcing his co-sponsorship of H.R. 3606
- Appendix G Tamper-resistant prescription pad presentations

(President Tomblin presides)

AGENDA
JOINT COMMITTEE ON GOVERNMENT AND FINANCE
January 8, 2008

3:00 - 4:00 p.m.

Senate Finance Room

1. Approval of December 11, 2007, minutes
2. Committee Reports:

The following committees submitted interim reports for 2007: *(Need motion to accept reports)*

- . **Agriculture & Agribusiness Committee** (Senator Edgell and Delegate Stemple, Chairs)
- . **Joint Commission on Economic Development** (Senator McCabe and Delegate Marshall, Chairs)
- . **Joint Standing Committee on Finance** (Senator Helmick and Delegate White, Chairs)
- . **Forest Management Review Commission** (Senator Helmick and Delegate Crosier, Chairs)
- . **Joint Standing Committee on Government Organization** (Senator Bowman and Delegate Morgan, Chairs)
- . **Legislative Oversight Commission on Health and Human Resources Accountability** (Senator Prezioso and Delegate Perdue, Chairs)
- . **Commission on Interstate Cooperation** (Senator Jenkins and Delegate Pino, Chairs)
- . **Joint Committee of Pensions and Retirement** (Senator Foster and Delegate Spencer, Chairs)
- . **Select Committee A - Children, Juveniles and Other Issues** (Senator Prezioso and Delegate Mahan, Chairs)
- . **Select Committee B - Veterans' Issues** (Senator Hunter and Delegate Fleischauer, Chairs)
- . **Select Committee C - Infrastructure** (Senator Unger and Delegate Hrutkay, Chairs)
- . **Select Committee D - Health** (Senator Prezioso and Delegate Perdue, Chairs)
- . **Select Committee E - Broadband** (Senator Unger and Delegate Browning, Chairs)
- . **Legislative Oversight Commission on Workforce Investment for Economic Development** (Senator McCabe and Delegate Tucker, Chairs)

3. Committee Requests:

- a. **Parks, Recreation and Natural Resources Subcommittee** *(Senator John P. Fanning, Chair; Delegate Jeff Eldridge and Delegate Danny Wells, Cochairs)* Requests expense reimbursement for site visitations to Canaan Valley State Park and Blackwater Falls State Park on January 25, 26 and 27 - **John Homburg**
- b. **Equal Pay Commission** *(Senator C. Randy White, Chair; Delegate Virginia Mahan, Chair)* Request for budget increase from \$250,000 to \$600,000 for upcoming year - **Senator White**
- c. **Select Committee B - Veterans' Issues** *(Senator Jon Blair Hunter, Chair; Delegate Barbara Fleischauer and Delegate Richard J. Iaquina, Cochairs)* Regarding request to West Virginia Higher Education Policy Commission for addition of social work and psychology disciplines to the Health Sciences Scholarship Program - **Delegate Iaquina**

4. **Monthly/Quarterly Reports Distribution:**
Status Reports on the Lottery Commission, General Revenue Fund and Unemployment Compensation Trust Fund
5. **Monthly/Quarterly Reports Distribution:**
PEIA, BRIM, CHIP and Lease Report - *Robert Ferguson, Jr., Secretary, Dept. of Administration*
6. **Board of Treasury Investments Report Distribution**
7. **Monthly/Quarterly Report Distribution from Department of Health and Human Resources:**
Medicaid Report - *Marsha Morris, DHHR*
8. **Monthly Report on the Pharmaceutical Cost Management Council:** *Shana Phares, Chair*
9. **Workers' Compensation:** *Jane Cline, Insurance Commissioner*
10. **Other Business**
11. **Adjournment**

AGENDA
JOINT COMMITTEE ON GOVERNMENT AND FINANCE
January 8, 2008

3:00 - 4:00 p.m.

Senate Finance Room

1. Approval of December 11, 2007, minutes
2. Committee Reports/Requests
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Status Reports on the Lottery Commission, General Revenue Fund and Unemployment Compensation Trust Fund
4. Monthly/Quarterly Reports Distribution:
PELA
BRIM
CHIP
Lease Report
5. Board of Treasury Investments Report Distribution
6. Monthly/Quarterly Report Distribution from Department of Health and Human Resources
7. Monthly Report on the Pharmaceutical Cost Management Council
8. Workers' Compensation
9. Other Business
10. Adjournment

INTERIM COMMITTEE REPORTS — 2007

- . **Agriculture & Agribusiness Committee** (Senator Edgell and Delegate Stemple, Chairs)
- . **Joint Commission on Economic Development** (Senator McCabe and Delegate Marshall, Chairs)
- . **Joint Standing Committee on Finance** (Senator Helmick and Delegate White, Chairs)
 - Finance Subcommittee B (Senator Helmick and Delegate Campbell, Chairs)
- . **Forest Management Review Commission** (Senator Helmick and Delegate Crosier, Chairs)
- . **Joint Standing Committee on Government Organization** (Senator Bowman and Delegate Morgan, Chairs)
- . **Legislative Oversight Commission on Health and Human Resources Accountability** (Senator Prezioso and Delegate Perdue, Chairs)
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- . **Select Committee D - Health** (Senator Prezioso and Delegate Perdue, Chairs)
- . **Select Committee E - Broadband** (Senator Unger and Delegate Browning, Chairs)
- . **Legislative Oversight Commission on Workforce Investment for Economic Development** (Senator McCabe and Delegate Tucker, Chairs)

NOTE: The following reports are attached but were not available for distribution at the meeting:

Finance Subcommittee A (Senator Bowman and Delegate Boggs, Chairs)
Finance Subcommittee C (Senator Bailey and Delegate Kominar, Chairs)
Parks, Recreation and Natural Resources Interim Subcommittee (Senator Fanning, Chair,
Delegate Eldridge and Delegate Wells, Cochairs)

INTERIM COMMITTEE REPORTS — 2007

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W. Ante on Finance

Interim Committee on Agriculture & Agribusiness

**Interim Report to the Joint Committee on Government and Finance
January 8, 2008**

Senate Members

Senator Edgell, Chair
Senator Bailey
Senator Barnes
Senator Hunter
Senator Love

House Members

Delegate Stemple, Chair
Delegate Talbot, Vice Chair
Delegate Anderson
Delegate Argento
Delegate Evans
Delegate Pethtel
Delegate Schoen
Delegate Swartzmiller
Delegate Tabb
Delegate Beach (Nonvoting)
Delegate Miller (Nonvoting)
Delegate Proudfoot (Nonvoting)
Delegate Williams (Nonvoting)

Introduction

During the 2007-2008 interim period, the Joint Committee on Government and Finance directed the Agriculture and Agribusiness interim committee to consider:

Senate Concurrent Resolution 78 - Requesting Joint Committee on Government and Finance study animal protection laws for horses.

The Committee heard testimony on several topics, including: animal protection; horse abuse and neglect; drought conditions; avian flu; colony collapse disorder, and the creation of an emergency fund within the Department of Agriculture.

Site Visitation

During the August interims, a site visitation was conducted at Delegate Tabb's farm to show an example of agritourism. Agritourism is a style of attraction where hospitality and events are offered on a farm. Delegate Tabb's farm offers visitors the chance to pick pumpkins, go on hay rides, traverse a cornfield maze, and work alongside staff as they perform their daily tasks on a working farm.

Guest Speaker

During the October interims, Doug Farquhar, Program Director for Agriculture and Rural

Development at the National Conference of State Legislators, discussed avian flu's effect on agriculture. Mr. Farquhar explained surveillance techniques currently being used by the federal government and stressed that state support is vital for tracking and eradicating avian flu.

Interim Legislation

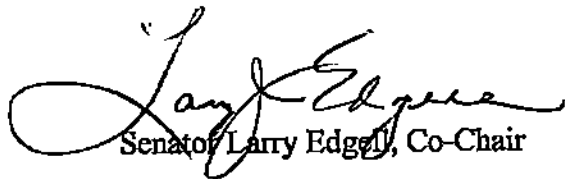
The committee does not recommend any legislation for passage during the 2008 Regular Session.

Conclusions and Recommendations

The Committee requested additional information from several of the aforementioned presenters and all handouts and information contained in the minutes for the meetings are on file in the office of the Interim Committee on Agriculture & Agribusiness. The Committee makes the following recommendations:

- That the Department of Agricultural receive additional appropriations for the Apiary industry, farmers' markets and drought relief.
- That consideration be given to the creation of a rainy day fund within the Department of Agriculture.

Respectfully Submitted,


Senator Larry Edgell, Co-Chair


Delegate Bill Stemple, Co-Chair

Interim Committee on Agriculture & Agribusiness

Interim Report to the Joint Committee on Government and Finance
January 8, 2008

Senate Members

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Senator Barnes
Senator Hunter
Senator Love

House Members

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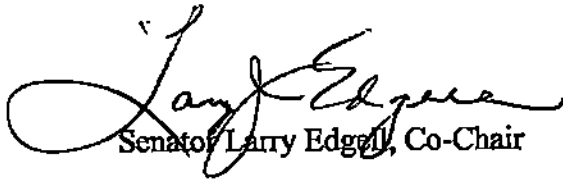
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Respectfully Submitted,


Senator Larry Edgel, Co-Chair


Delegate Bill Stemple, Co-Chair

**West Virginia Legislature
Joint Commission on Economic Development**

**FINAL REPORT
to
Joint Committee on Government and Finance
2007 - 2008 Interims
January 8, 2008**

Members

Senate

Senator Brooks McCabe, Chair
Senator Edwin Bowman
Senator Walt Helmick
Senator Jeffrey Kessler
Senator Michael Oliverio II
Senator Robert Plymale
Senator Roman Prezioso, Jr.
Senator Ron Stollings
Senator John Unger, II
Senator Clark Barnes
Senator Karen Facemyer
Senator Andy McKenzie

House

Delegate Charlene Marshall, Chair
Delegate Kenneth Tucker, Vice Chair
Delegate Thomas Campbell
Delegate Daniel Poling
Delegate Mary Poling
Delegate Douglas Stalnaker
Delegate Carrie Webster
Delegate Harry Keith White
Delegate Locke Wysong
Delegate Craig Blair
Delegate Mitch Carmichael
Delegate Bill Hamilton
Delegate Richard Browning (nonvoting)
Delegate Orphy Klempa (nonvoting)
Delegate Corey Palumbo (nonvoting)
Delegate Ron Walters (nonvoting)

Your Joint Commission on Economic Development was appointed following the 2007 Regular Session of the Legislature. Section 5, Article 3, Chapter 5B of the Code of West Virginia requires that the Commission:

(1) Study the feasibility of establishing common regional configurations for such purposes as local workforce investment areas, regional educational service agencies and for all other purposes the commission considers feasible as well as

review the existing levels of cooperation between state and local economic developers;

(2) Study the effectiveness and fiscal impact of incentives for attracting and growing businesses, especially technology-intensive companies; and

(3) Review existing economic and community development resources that would allow the state to successfully compete in the new global economy.

In accordance with these requirements and the authority given to the Commission pursuant to Section 2, Article 3, Chapter 5B of the West Virginia Code to study other economic development issues, Your Commission has met and discussed the assigned topics, as well as the following additional topics:

(1) Reviewed the work of the West Virginia Economic Development Grant Committee created by H.B. 4005 enacted during the 2002 Regular Session and received an update on the status of the grants;

(2) Held a joint meeting with the Forest Management Review Commission to consider permitting public recreational use of certified managed timberland;

(3) Studied land conservation as a means to protect land important to the state's natural resources and economy, and, in so doing, visited two land conservation sites in the eastern panhandle;

(4) Heard testimony regarding the need for continued funding for PTAC and RCAC, two procurement and assistance centers that help small business bid and obtain government contracts; and

(5) Began discussions regarding the state's carbon sequestration potential and received some model legislation for review.

The Joint Commission on Economic Development **REPORTS** as follows:

Your Commission **RECOMMENDS** that it continue to received updates related to the progress of the Economic Grant Committee and its approved grants, and the tourism development tax credits and approved projects.


Your Commission **RECOMMENDS** that the study of permitting public recreational use of certified managed timberland be vested solely with the Forest Management Review Commission.

Your Commission finds that land conservation is important to the state's natural resources and economy and **RECOMMENDS** that the **JOINT COMMITTEE ON FINANCE** be charged with studying sustainable funding methods for land conservation.

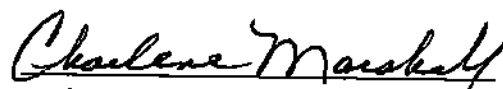
Your Commission finds that the procurement centers are a valuable asset to businesses and potential new business in this State and **RECOMMENDS** the continued funding of the procurement centers.

Your Commission **FURTHER RECOMMENDS** that it continue the carbon sequestration study and be authorized to bring in experts in the field to assist in understanding this complex issue before supporting any legislation.

Respectfully Submitted,



Senator Brooks McCabe
Co-Chair



Delegate Charlene Marshall
Co-Chair

**West Virginia Legislature
Joint Standing Committee on Finance
2007 - 2008 Interims**

Senate Members

Senator Helmick, Chair
Senator Sharpe, Vice-Chair
Senator Bailey
Senator Bowman
Senator Chafin
Senator Edgell
Senator Fanning
Senator Love
Senator McCabe
Senator Plymale
Senator Prezioso
Senator Unger
Senator Boley
Senator Facemyer
Senator Guills
Senator Sprouse
Senator Sypolt

House Members

Delegate White, Chair
Delegate Boggs, Vice-Chair
Delegate Barker
Delegate Campbell
Delegate Craig
Delegate Doyle
Delegate Iaquina
Delegate Klempa
Delegate Kominar
Delegate Manchin
Delegate Marshall
Delegate Perdue
Delegate M. Poling
Delegate Reynolds
Delegate Spencer
Delegate Stalnaker
Delegate Tucker
Delegate Yost
Delegate Anderson
Delegate Ashley
Delegate Blair
Delegate Border
Delegate Carmichael
Delegate Evans
Delegates Walters

FINAL REPORT OF

THE JOINT STANDING COMMITTEE ON FINANCE

TO THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE

January 8, 2008


Your Joint Standing Committee on Finance was assigned the interim study of the following topics during the 2007-2008 legislative interim period:

- ***HCR 70- Requesting the Joint Committee on Government and Finance to study the necessity for additional public defender corporations for the delivery of indigent defense services.***

- *HCR 89- Requesting that the Joint Committee on Government and Finance authorize the study of a monetary incentive program to recruit and retain qualified workers to critically understaffed classifications.*
- *SB 459 & HB 2280 - Relating to providing that correctional officers may retire with full benefits after 20 years of service.*
- *Tax Issues Generally*
- *HCR 50 (Study of the Soft Drink Tax)*
- *HCR 87 (Study of insurance coverage on public buildings and property)*
- *Long term funding of the Special Reclamation fund and the creation of a Water Trust Fund*
- *HCR 62 Requesting the Joint Committee on Government and Finance study large land holdings, county by county, to determine the value taxation of deed holders of lands in excess of 1,000 acres.*
- *GASB Implementation generally*

Your Committee reports that it has received and adopted the reports and recommendations of its subcommittees on those matters. All of those reports and recommendations are submitted with this report to the Joint Committee on Government and Finance for its consideration.

Respectfully Submitted,


 Senator Walt Helmick
 Co-Chairman


 Delegate Harry Keith White
 Co-Chairman

West Virginia Legislature
Joint Standing Committee on Finance
2007 - 2008 Interims
Subcommittee A

Senate Members:

Senator Ed Bowman, Chair
Senator Roman Prezioso
Senator John Unger
Senator Karen Facemyer
Senator JesseGuills
Senator Walt Helmick, *Ex Officio*

House Members:

Delegate Brent Boggs, Chair
Delegate Larry Barker
Delegate Craig Blair
Delegate Richard Iaquina
Delegate Don Perdue
Delegate Doug Reynolds
Delegate Bob Ashley
Delegate Larry Border
Delegate Harry Keith White, *Ex Officio*

FINAL REPORT OF

SUBCOMMITTEE A

TO THE JOINT STANDING COMMITTEE ON FINANCE
January 6, 2008

Your Subcommittee A was appointed following the 2007 Regular Session of the 78th Legislature and assigned the following topics for study during the interim period:

HCR 70 - Requesting the Joint Committee on Government and Finance to study the necessity for additional public defender corporations for the delivery of indigent defense services,

HCR 89 - Requesting the Joint Committee on Government and Finance authorize the study of a monetary incentive program to recruit and retain qualified workers to critically understaffed classification,

SB 459 & HB 2280 - Relating to providing that correctional officers may retire with full benefits after 20 years of service.

During the 2007-2008 legislative interim period, Subcommittee A met and received information on these topics of study from state agencies and other sources. Subcommittee A **REPORTS** as follows:

On the issue of the necessity for additional public defender corporations, the committee heard from representatives from the West Virginia Public Defender Services, the Department of Administration, William Summers and Joshua P. Strum, Attorneys and Nancy Stephens of Tri-S Investigations.

Your Subcommittee **RECOMMENDS** that the Legislature support legislation that provides a time limit on submission of claims.

Your Subcommittee A **DOES NOT RECOMMEND** that the Legislature continue to study the issue of public defenders .

On the issue of allowing correctional officers full retirement after 20 years of service, a motion was made during the interims to not fully study this issue until a fiscal note could be provided. No fiscal note has been provided at this time. Subcommittee A **DOES NOT RECOMMEND** that the legislature continue to study this issue since a fiscal note will be required during the session if the issue is forthcoming.

On the issue of a monetary incentive program to recruit and retain qualified workers to critically understaffed classifications, The Division of Personnel reported that no program had yet requested the monetary incentive since it is such a new program and that they were working with a consultant to further establish ways to improve recruitment and retention of employees. The Joint Standing Committee on Finance, Subcommittee A **RECOMMENDS** that this issue be continued

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Bill No.

(By _____)

[Originating in the Committee on Finance, Subcommittee A;
2007.]

A BILL to amend and reenact §29-21-13a of the Code of West Virginia, 1931, as amended; relating to Public Defender Services generally; clarifying panel attorney compensation and expenses; and providing a limit on submission of claims.

Be it enacted by the Legislature of West Virginia:

That §29-21-13a of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

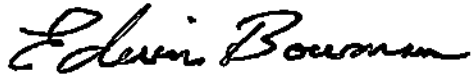
ARTICLE 21. PUBLIC DEFENDER SERVICES.

§29-21-13a. Compensation and expenses for panel attorneys.

(a) All panel attorneys shall maintain detailed and accurate records of the time expended and expenses incurred on behalf of eligible clients, and upon completion of each case, exclusive of appeal, shall submit to the appointing court a voucher for services. Claims for fees and expense reimbursements shall be submitted to the appointing court on forms approved by the executive director. Claims submitted more than ~~four years~~ ninety days after the last date of service shall be rejected beginning

next year to give the committee an opportunity to more fully review the consultants recommendations and any useage by programs to provide a monetary incentive.

Respectfully Submitted,



Senator Edwin Bowman
Co-Chair



Delegate Brent Boggs
Vice-Chair

1 with all cases completed after the last day of June, two thousand
2 eight.

3 The appointing court shall review the voucher to determine if
4 the time and expense claims are reasonable, necessary and valid,
5 and shall forward the voucher to the agency with an order approving
6 payment of the claimed amount or of a lesser sum the court
7 considers appropriate.

8 (b) Notwithstanding any other provision of this section to the
9 contrary, public defender services may pay by direct bill, prior to
10 the completion of the case, litigation expenses incurred by
11 attorneys appointed under this article.

12 (c) Notwithstanding any other provision of this section to the
13 contrary, a panel attorney may be compensated for services rendered
14 and reimbursed for expenses incurred prior to the completion of the
15 case where: (1) More than six months have expired since the
16 commencement of the panel attorney's representation in the case;
17 and (2) no prior payment of attorney fees has been made to the
18 panel attorney by public defender services during the case. The
19 amounts of any fees or expenses paid to the panel attorney on an
20 interim basis, when combined with any amounts paid to the panel
21 attorney at the conclusion of the case, shall not exceed the
22 limitations on fees and expenses imposed by this section.

23 (d) In each case in which a panel attorney provides legal
24 representation under this article, and in each appeal after
25 conviction in circuit court, the panel attorney shall be
26 compensated at the following rates for actual and necessary time

1 expended for services performed and expenses incurred subsequent to
2 the effective date of this article:

3 (1) For attorney's work performed out of court, compensation
4 shall be at the rate of forty-five dollars per hour. For
5 paralegal's work performed out of court for the attorney,
6 compensation shall be at the rate of the paralegal's regular
7 compensation on an hourly basis or, if salaried, at the hourly rate
8 of compensation which would produce the paralegal's current salary,
9 but in no event shall the compensation exceed twenty dollars per
10 hour. Out-of-court work includes, but is not limited to, travel,
11 interviews of clients or witnesses, preparation of pleadings and
12 prehearing or pretrial research.

13 (2) For attorney's work performed in court, compensation shall
14 be at the rate of sixty-five dollars per hour. No compensation for
15 paralegal's work performed in court shall be allowed. In-court
16 work includes, but is not limited to, all time spent awaiting
17 hearing or trial ~~if the presence of the attorney is required before~~
18 a judge, magistrate, special master or other judicial officer.

19 (3) The maximum amount of compensation for out-of-court and
20 in-court work under this subsection is as follows: For proceedings
21 of any kind involving felonies for which a penalty of life
22 imprisonment may be imposed, the amount as the court may approve;
23 for all other eligible proceedings, three thousand dollars unless
24 the court, for good cause shown, approves payment of a larger sum.

25 (e) Actual and necessary expenses incurred in providing legal
26 representation for proceedings of any kind involving felonies for

1 which a penalty of life imprisonment may be imposed, including, but
2 not limited to, expenses for travel, transcripts, salaried or
3 contracted investigative services and expert witnesses, shall be
4 reimbursed in an amount as the court may approve. For all other
5 eligible proceedings, actual and necessary expenses incurred in
6 providing legal representation, including, but not limited to,
7 expenses for travel, transcripts, salaried or contracted
8 investigative services and expert witnesses, shall be reimbursed to
9 a maximum of ~~fifteen hundred~~ one thousand five hundred dollars
10 unless the court, for good cause shown, approves reimbursement of
11 a larger sum.

12 Expense vouchers shall specifically set forth the nature,
13 amount and purpose of expenses incurred and shall provide receipts,
14 invoices or other documentation required by the executive director
15 and the State Auditor:

16 (1) (A) Reimbursement of expenses for production of
17 transcripts of proceedings reported by a court reporter is limited
18 to the cost per original page and per copy page as set forth in
19 section four, article seven, chapter fifty-one of this code.
20 ~~Reimbursement of the cost of copies of such transcripts is limited~~
21 ~~to the cost per copy page as provided for under said section. It~~
22 ~~is the duty of the executive director of public defender services~~
23 ~~to maintain computer records of all transcripts, including~~
24 ~~originals and copies, for which payment has been made.~~

25 (B) (i) There shall be no reimbursement of expenses for or
26 production of a transcript of a preliminary hearing before a

1 magistrate or juvenile referee, or of a magistrate court jury
2 trial, ~~which has been reported by a court reporter at the request~~
3 ~~of the attorney,~~ where the preliminary such hearing or jury trial
4 has also been recorded electronically in accordance with the
5 provisions of section eight, article five, chapter fifty of this
6 code or court rule.

7 (ii) Reimbursement of the expense of an appearance fee for a
8 court reporter who reports a proceeding other than one described in
9 subparagraph (i) of this paragraph ~~or who reports a proceeding~~
10 ~~which is not reported by an official court reporter acting in his~~
11 ~~or her official capacity for the court,~~ is limited to twenty-five
12 dollars. Where a transcript of a proceeding is produced, there
13 shall be no reimbursement for the expense of any appearance fee.
14 ~~Where a transcript is requested by the attorney after an appearance~~
15 ~~fee has been paid, reimbursement of the expense incurred to obtain~~
16 ~~the transcript is limited to the cost of producing the transcript,~~
17 ~~within the prescribed limitations of paragraph (a) of this~~
18 ~~subdivision, less the amount of the paid appearance fee.~~

19 (iii) ~~Reimbursement of travel expenses incurred for travel by~~
20 ~~a court reporter is subject to the limitations provided by~~
21 ~~subdivision (2) of this subsection.~~

22 (iv) Except for the appearance fees provided in this
23 paragraph, there shall be no reimbursement for hourly court
24 reporters' fees or fees for other time expended by the court
25 reporter, either at the proceeding or traveling to or from the
26 proceeding.

1 (C) Reimbursement of the cost of transcription of tapes
2 electronically recorded during preliminary hearings or magistrate
3 court jury trials is limited to ~~the rates established by the~~
4 ~~supreme court of appeals for the reimbursement of transcriptions of~~
5 ~~electronically recorded hearings and trial~~ one dollar per page.

6 (2) Reimbursement for any travel expense incurred in an
7 eligible proceeding is limited to the rates for the reimbursement
8 of travel expenses established by rules promulgated by the Governor
9 pursuant to the provisions of section eleven, article eight,
10 chapter twelve of this code and administered by the Secretary of
11 the Department of Administration pursuant to the provisions of
12 section forty-eight, article three, chapter five-a of this code.

13 (3) Reimbursement for investigative services is limited to a
14 rate of thirty dollars per hour for work performed by an
15 investigator.

16 (f) For purposes of compensation under this section, an appeal
17 from a final order of the circuit court or a proceeding seeking an
18 extraordinary remedy made to the Supreme Court of Appeals shall be
19 considered a separate case.

20 (g) Vouchers submitted under this section shall specifically
21 set forth the nature of the service rendered, the stage of
22 proceeding or type of hearing involved, the date and place the
23 service was rendered and the amount of time expended in each
24 instance. All time claimed on the vouchers shall be itemized to
25 the nearest tenth of an hour. If the charge against the eligible
26 client for which services were rendered is one of several charges

1 involving multiple warrants or indictments, the voucher shall
2 indicate the fact and sufficiently identify the several charges so
3 as to enable the court to avoid a duplication of compensation for
4 services rendered. The executive director shall refuse to
5 requisition payment for any voucher which is not in conformity with
6 the recordkeeping, compensation or other provisions of this article
7 and in such circumstance shall return the voucher to the court or
8 to the service provider for further review or correction.

(NOTE: The purpose of the bill is to modify the time frame
for submitted claims for reimbursement.)

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.)

West Virginia Legislature
Joint Standing Committee on Finance
2007 - 2008 Interims
Subcommittee B

Senate Members:

Senator Walt Helmick, *Chair*
Senator Jon Pat Fanning
Senator Brooks McCabe
Senator Bob Plymale
Senator Bill Sharpe
Senator Donna Boley
Senator Vic Sprouse

House Members:

Delegate Tom Campbell, *Chair*
Delegate John Doyle
Delegate Charlene Marshall
Delegate Sharon Spencer
Delegate Kenneth Tucker
Delegate Mitch Carmichael
Delegate Allen Evans
Delegate Kevin Craig
Delegate Harry Keith White, *Ex Officio*

FINAL REPORT OF

SUBCOMMITTEE B

TO THE JOINT STANDING COMMITTEE ON FINANCE
January 8, 2008

Your Subcommittee B was appointed following the 2007 Regular Session of the 78th Legislature and assigned the following topics for study during the interim period:

Topic 1: Insurance coverage on public buildings and property generally

Topic 2: Tax issues generally

Topic 3: Evaluation of long-term funding for the Special Reclamation Fund and creation of a Water Trust Fund

Topic 4: HCR 50 - Requesting the Joint Committee on Government and Finance study the soft drink tax

During the 2007-2008 legislative interim period, Subcommittee B met and received information on these topics of study from state agencies, political subdivisions and other sources.

Subcommittee B **REPORTS** as follows:

On **TOPIC 1: Insurance coverage on public buildings and property generally**, the Subcommittee received information on the extent of property insurance coverage on the Morgan County Courthouse when it burned on August 8, 2006, and more broadly, information on the recent property and liability self-insurance pool formed July 1, 2007, by 20 counties in West Virginia pursuant to legislative authorization (§29-12A-16, §114 CSR 65). The Subcommittee also received information on the incidental effect the pool's formation has had on private sector insurance providers and on the state provider, the West Virginia Board of Risk and Insurance Management (BRIM), which had previously provided this insurance for many of those counties. The Subcommittee further received information on the benefits of participation in the pool anticipated by its members on the one hand, and information suggesting the coverage and services provided by the pool is not as reliable as could be obtained from the private insurance sector and/or BRIM and portending fiscal problems for the State if BRIM is compelled to insure only those counties with the highest risk. On these issues, the Subcommittee was addressed by various County Officials from Morgan, Berkeley, Greenbrier, Wayne and Upshur counties, representatives of BRIM, the West Virginia Association of Counties, the County Commissioners' Association of West Virginia, the West Virginia Counties Risk Pool (WVCoRP) and its third-party administrator, VACo Risk Management Programs, various private insurance agents licensed in the state, and representatives of the Professional Independent Insurance Agents of West Virginia.

On **TOPIC 1**, your Subcommittee **RECOMMENDS** that during its 2008 Regular Session, the Legislature continue to monitor the experience of the West Virginia Counties Risk Pool (WVCoRP) and its third-party administrator, as well as the current ongoing efforts of BRIM to ensure that all county properties are adequately insured either through the pool, private insurers or

through BRIM, and at the conclusion of the Regular Session, if circumstances warrant, that these issues be designated for continued formal study during the ensuing Interim Meetings of the Legislature.

On **TOPIC 2: Tax issues generally**, the Subcommittee received information on the results of the 3 month tax amnesty period authorized by HB2775 (07RS). The bill eliminated the 5% privilege tax imposed on new resident motor vehicle registrations effective June 7, 2007, and the amnesty period allowed those who moved into the state prior to that date without timely registering their motor vehicles an amnesty period during which they could register without paying the 5% tax. On this issue, the Subcommittee was addressed by a representative of the West Virginia Division of Motor Vehicles, who reported a significant increase in motor vehicle registrations during the amnesty period over the number of registrations occurring during the same period in the prior year.

On **TOPIC 2**, your Subcommittee **RECOMMENDS** that the Legislature continue to seek means to enforce current law requiring that residents of this State maintain West Virginia registration of their motor vehicles located in this State.

On **TOPIC 3: Evaluation of long-term funding for the Special Reclamation Fund and creation of a Water Trust Fund**, the Subcommittee received information on efforts of the Special Reclamation Fund Advisory Council to find an adequate and fairly derived funding source for the cost of fully reclaiming mining sites where bonds given to cover those costs and then forfeited were insufficient to complete the treatment of the acid mine drainage in the water flowing from these mining sites. On this issue, the Subcommittee was addressed by the Division of Land Restoration of the West Virginia Department of Environmental Protection, who reviewed the history of this State's efforts to address the Special Reclamation Fund issue, as well as by the Center for Business

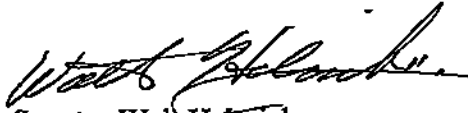
and Economic Research at Marshall University, which was commissioned by the Advisory Council to assess the expected cost of providing treatment of the acid mine drainage in the water flowing from these forfeited mining sites and make recommendations to the Legislature for funding these costs. The Center's report found that the current 7¢ per ton of coal tax currently imposed on the coal industry will be insufficient to cover all future costs of this water treatment. The report recommends that while full-cost bonding by mining operations be required to cover costs for sites needing land reclamation, the State establish a special "Water Trust Fund" to cover the costs of existing and unexpected future acid mine drainage water treatment at forfeited sites, some of which could require treatment in perpetuity, and provides some options for funding the Water Trust Funding, including a direct appropriation of the necessary funds, or a further temporary increase in coal tonnage taxation.

On **TOPIC 3**, your Subcommittee B **RECOMMENDS** that the Legislature consider the report of the Marshall University Center for Business and Economic Research and the full 2006 Annual Report Special Reclamation Fund Advisory Council which recommended, with the exception of the industry representative on the Council, that the Legislature establish a water trust fund and fund it with Coal Severance Tax revenues and an additional tax on clean coal. It is **FURTHER RECOMMENDED** that the Legislature consider any budgetary and general law proposals that the Executive may submit on the issue in response to the United States District Court's recent decision to hold in abeyance a motion to reopen a case pending before it seeking federal action to compel adequate funding of these water treatment costs until the Legislature has the opportunity to consider the Advisory Council's recommendations during the 2008 Regular Session.

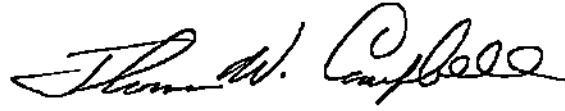
On **TOPIC 4: HCR 50 - Requesting the Joint Committee on Government and Finance study the soft drink tax**, your Subcommittee B **RECOMMENDS** that the Legislature continue to examine

this issue during the 2008 Regular Session and at the conclusion of the Regular Session, if circumstances warrant, that this issue be designated for continued formal study during the ensuing Interim Meetings of the Legislature.

Respectfully Submitted,



Senator Walt Helmick
Co-Chair



Delegate Tom Campbell
Co-Chair

**West Virginia Legislature
Joint Committee on Finance
2007-2008 Interims
Subcommittee C**

Senate Members:

*Senator Bailey, Chair
Senator Chafin
Senator Edgell
Senator Love
Senator Sypolt
Senator Helmick, Ex Officio*

House Members:

*Delegate Kominar, Chair
Delegate Anderson
Delegate Klempa
Delegate Manchin
Delegate M. Poling
Delegate Stalnaker
Delegate Walters
Delegate Yost
Delegate White, Ex Officio*

Final Report of

SUBCOMMITTEE C

TO THE JOINT STANDING COMMITTEE ON FINANCE

January 8, 2008

Your Subcommittee C was appointed following the 2007 regular Session of the 78th Legislature and assigned the following topics for study during the interim period:

- Topic 1: HCR62- Requesting the Joint Committee on Government and Finance study large land holdings, county by county, to determine value taxation of deed holders of lands in excess of one thousand acres.*
- Topic 2: The PEIA Other Post Employment Benefits (OPEB) liability and GASB reporting requirements, generally.*
- Topic 3: SB 496 & HB 2916- Establishing a pay plan for all members for the classified-exempt service of the state.*

During the 2007-2008 legislative interim period, Subcommittee C met and received information on these topics of study from state agencies, political subdivisions and other sources. Subcommittee C

REPORTS as follows:

On **TOPIC 1: Property taxation of large land holdings**, your Subcommittee received information from Wade Thompson, Director, Property Tax Division of the West Virginia Department of Revenue on value assessment and taxation of real property statewide. The Honorable Preston B. Gooden, Berkley County Assessor presented property tax assessment proposals which would provide property tax relief to senior citizens.

On **TOPIC 1**, your Subcommittee **RECOMMENDS** that during its 2008 Regular Session, the staff analyze state constitutional issues which impede the State from discriminating between property owners on the basis of the size of their property holdings.

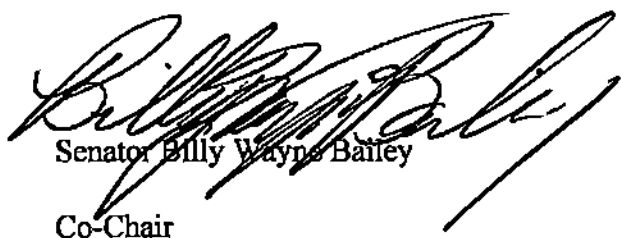
On **TOPIC 2: PEIA Other Post Employment Benefits (OPEB) liability and GASB reporting requirements**, the Subcommittee received extensive information on the valuation of the liability; plan invoicing; employer reporting; and, implications and issues for state spending units, county school boards, counties, municipalities and other political subdivisions and their perspectives.

On **TOPIC 2**, your Subcommittee **FINDS** there to be 1.) Significant uncertainty regarding which entities and funding sources are responsible for what parts of the plan's liability; 2.) Significant uncertainty regarding what the "defined benefits" that have been "promised" to retirees actually are; 3.) Common misunderstandings among PEIA employer participants regarding invoiced-optional amounts supporting the OPEB unfunded liability; 4.) A need for a sufficient OPEB funding and/or liability reduction/elimination plan; 5.) A need for more sophisticated accounting for individual employer contributions toward the optional, unfunded amounts, which recognizes the time-value of contributions, credits the Trust Fund amounts to individual employers and eliminates current disincentives to prefunding; 6.) A need for greater self-determination among political subdivisions regarding benefits provided to their retirees; and, 7.) A need for greater recognition of differences among the benefit structures of the various political subdivisions of the State and corresponding valuations of their

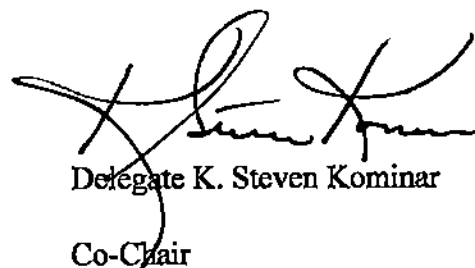
liabilities. Your Subcommittee C **RECOMMENDS** that the Legislature continue to study the OPEB unfunded liability during its 2008 Regular Session and in the subsequent interim period. Regarding a legislative proposal presented to the Subcommittee by the West Virginia Municipal League and endorsed by the West Virginia Association of Counties, your Subcommittee C **REPORTS** it as attached hereto, and submits it to the Joint Standing Committee on Finance without recommendation.

On **TOPIC 3: Establishing a pay plan for all members for the classified-exempt service of the state**, your Subcommittee made no progress due to its efforts on its other important topics of study.

Respectfully Submitted,



Senator Billy Wayne Bailey
Co-Chair



Delegate K. Steven Kominar
Co-Chair

§5-16-22. Permissive participation; exemptions.

The provisions of this article are not mandatory upon any employee or employer who is not an employee of or is not the state of West Virginia, its boards, agencies, commissions, departments, institutions or spending units or a county board of education, and nothing contained in this article shall be construed so as to compel any employee or employer to enroll in or subscribe to any insurance plan authorized by the provisions of this article.

Those employees enrolled in the insurance program authorized under the provisions of article two-b, chapter twenty-one-a of this code shall not be required to enroll in or subscribe to an insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost of the premium may be exempted from the provisions of this article. Any employee or employer exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee or employer, but employee or employer shall not remain enrolled in both programs. The provisions of articles fourteen, fifteen and sixteen, chapter thirty-three of this code, relating to group life insurance, accident and sickness insurance, and group accident and sickness insurance, are not applicable to the provisions of this article whenever the provisions of articles fourteen, fifteen and sixteen, chapter thirty-three of this code are in conflict with or contrary to any provision set forth in this article or to any plan or plans established by the public employees insurance agency.

Employers, other than the state of West Virginia, its boards, agencies, commissions, departments, institutions, spending units or a county board of education are exempt from participating in the insurance program provided for by the provisions of this article unless participation by the employer has been approved by a majority vote of the employer's governing body. It is the duty of the clerk or secretary of the governing body of an employer who by majority vote becomes a participant in the

insurance program or offers post retirement benefits to its employees to notify the director not later than ten days after the vote.

Any employer, who is a non-state agency and elects by majority vote of its governing body to offer health care coverage to its retirees, and ~~whether the employer participates in the public employees insurance agency insurance program as a group may or not, which has retired employees, their dependents or surviving dependents of deceased retired employees who participate in the public employees insurance agency insurance program as authorized by this article, and shall pay to the agency the same contribution toward the cost of coverage for its retired employees, their dependents or surviving dependents of deceased retired employees as the state of West Virginia, its boards, agencies, commissions, departments, institutions, spending units or a county board of education pay for their retired employees, their dependents and surviving dependents of deceased retired employees, as determined by the finance board: *Provided*, That after the thirtieth day of June, one thousand nine hundred ninety-six, an employer who is a non-state agency is only required to pay a contribution toward the cost of coverage for its retired employees, their dependents or the surviving dependents of deceased retired employees who elect coverage when the retired employee participated in the plan as an active employee of the employer for at least five years only if the governing body approves the same by ordinance or order. Once approved by the participating employer's governing body, Each employer is hereby authorized and required to budget for and make such payments as are required by this section. A non-state agency's participation in the consolidated public retirement system is not an election to other post retirement benefits to its employees or retirees.~~

2007-2008 ANNUAL REPORT

Forest Management Review Commission

Pursuant to Section 7, Article 24, Chapter 5 of the Code of West Virginia, the West Virginia Forest Management Review Commission (FMRC) makes the following report to the Joint Committee on Government and Finance for the period of June 2007 through January 2008.

June 2007

Senator McCabe and Noelle Starek, Senate Committee Counsel, presented Senate Concurrent Resolution No. 83, regarding taxation of managed timberland, to the committees.

Wade Thompson, Director of the Division of Property Tax, made a presentation to the committees and answered questions. Senator Helmick spoke and answered questions.

Randy Dye, Director of the Division of Forestry, made a presentation to the committees and provided the committees with a handout regarding the Division of Forestry's involvement with Managed Timberlands.

Frank Jeziero, Director of the Division of Natural Resources, made a presentation to the committees and provided the committees with copies of his comments and a handout regarding hunting and other recreational uses of Managed Timberlands.

July 2007

In lieu of having a committee meeting, the members went on a visitation of a tree farm nursery in Mason County.

August 2007

S. Clark Haynes, Assistant Director of the Forest Health Protection Programs, presented to the committee a slide show regarding the gypsy moth in West Virginia, information on other forest pests including the hemlock woolly adelgid, syrex wood wasp, emerald ash borer and sudden oak death and beech bark disease.

Steve Hannah, Deputy Commissioner of the Department of Agriculture, spoke and answered questions about state and federal funding regarding the gypsy moth problems in West Virginia.

September 2007

In lieu of having a committee meeting, the members went on a brief visitation to the Cacapon State Park to see damage to the trees from the gypsy moth. The members then went on a tour of Caperton Furniture Works. Gat Caperton, President and CEO, took the members on a step-by-step tour of how the furniture is made.

October 2007

John Crites, Allegheny Wood Products, discussed with the committee the issues facing the wood products industry in West Virginia. Questions and comments followed.

Greg Cook, Deputy State Forester, discussed with the committee the current fuel conditions. Questions and comments followed.

November 2007

Mr. Rob Jones, Jim C. Hamer Company, discussed with the committee the issues facing the wood products industry in West Virginia.

December 2007

Mr. Tom Inman, President, Appalachian Hardwood Manufacturers, discussed with the committee the issues facing the appalachian hardwood industry from a market perspective. Mr. Inman presented a slide show and handouts are on file.

January 2008

Mr. Randy Dye, Director Division of Forestry, presented to the committee the 2007 Division of Forestry Annual Report and provided handouts. A question and answer session followed.

Mr. Roger Sherman, spokesman from Mead Westvaco, spoke and answered questions.

Respectfully submitted,



Walt Helmick,
Senate Cochair



Gerald Crosier,
House of Delegates Cochair

West Virginia Forest Management Review Commission



WEST VIRGINIA LEGISLATURE
JOINT COMMITTEE ON GOVERNMENT ORGANIZATION
STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25305

2007-2008 Report
of the
Joint Standing Committee on Government Organization
to the
Joint Committee on Government and Finance

During the 2007-2008 Interim Session, the Joint Standing Committee on Government Organization has had under consideration the following topics:

1. Continuation of the Board of Registration for Professional Engineers
2. Continuation of the WV Acupuncture Board
3. Continuation of the WV Board of Examiners in Counseling
4. Termination of the Blennerhassett Island Historical State Park Commission
5. Sunrise Review of the Regulation of Elevator Workers
6. SCR 52, Requesting Joint Committee on Government and Finance study feasibility of constructing covered promenades and handicapped ramps on Capitol second floor outdoor walkways
7. SCR 55, Requesting Joint Committee on Government and Finance study authorizing municipalities means to satisfy liens
8. SCR 63, Requesting Joint Committee on Government and Finance study regulating Professional Employer Organization industry

The Committee and its Subcommittees met throughout the Interims, held discussions and had presentations regarding each topic.

The Committee reports:

As to 1, a Bill to continue the Board of Registration for Professional Engineers to 2013, with the recommendation that it do pass.

As to 2, a Bill to continue the WV Acupuncture Board to 2019, with the recommendation that it do pass.

As to 3, a Bill to continue the WV Board of Examiners in Counseling to 2019, with the recommendation that it do pass.

As to 4, a Bill to terminate the Blennerhassett Historical State Park Commission, with the recommendation that it do pass.

As to 5, a Bill to regulate elevator mechanics and apprentices, with the recommendation that it do pass.

As to 6, no recommendation.

As to 7, a Bill to authorize municipalities to adopt ordinances to file liens against property for delinquent service fees; and,

A study resolution to study the authority of municipalities to recoup the costs of demolition of dilapidated buildings,

With the recommendation that they each do pass.

As to 8, a Bill to regulate Professional Employer Organizations, with no recommendation as to its passage.

A copy of each draft is attached to this report.

Respectfully Submitted,



Senator Edwin Bowman
Senate Co-Chair



Delegate Jim Morgan
House Co-Chair

1
2 H.B. / S.B.

3
4
5 (By Delegates / Senators)

6 (Introduced)
7

8 A BILL to amend and reenact the Code of West Virginia, 1931, as
9 amended, by adding thereto a new section, designated §30-13-25
10 relating to continuing the Board of Registration for
11 Professional Engineers.

12 *Be it enacted by the Legislature of West Virginia:*

13 That the Code of West Virginia, 1931, as amended, be amended
14 by adding thereto a new section, designated §30-13-25, to read as
15 follows:

16 **ARTICLE 13. ENGINEERS.**

17 **§30-13-25. Continuation of the Board of Registration for**
18 **Professional Engineers.**

19 Pursuant to the provisions of article ten, chapter four of
20 this code, the Board of Registration for Professional Engineers
21 shall continue to exist until the first day of July, two thousand
22 thirteen, unless sooner terminated, continued or reestablished.

NOTE: The purpose of this bill is to continue the Board of
Registration for Professional Engineers until 2013.

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H.B. / S.B.

(By Delegates / Senators)

(Introduced)

A BILL to amend and reenact §30-36-20, of the Code of West Virginia, 1931, as amended, relating to continuing the West Virginia Acupuncture Board.

Be it enacted by the Legislature of West Virginia:

That §30-36-20, of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 36. ACUPUNCTURISTS.

§30-36-20. Continuation of the West Virginia Acupuncture Board.

Pursuant to the provisions of article ten, chapter four of this code, the West Virginia Acupuncture Board shall continue to exist until the first day of July, two thousand ~~eight~~ nineteen, unless sooner terminated, continued or reestablished.

NOTE: The purpose of this bill is to continue the West Virginia Acupuncture Board until 2019.

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S.B. / H. B.

(By Senators / Delegates)

A BILL to amend and reenact §30-31-15, of the Code of West Virginia, 1931, as amended, relating to continuing the West Virginia Board of Examiners in Counseling.

Be it enacted by the Legislature of West Virginia:

That §30-31-15, of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

§30-31-15. Continuation of the West Virginia Board of Examiners in Counseling.

Pursuant to the provisions of article ten, chapter four of this code, the West Virginia Board of Examiners in Counseling shall continue to exist until the first day of July, two thousand ~~eight~~ nineteen, unless sooner terminated, continued or reestablished.

NOTE: the purpose of this bill is to continue the Board of Examiners of Counseling until the first day of July, 2019.

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H.B. / S.B.

(By Senators / Delegates)

[2008 Regular Session]

A BILL to amend and reenact §29-8-2, §29-8-3, §29-8-4 and §29-8-5 of the Code of West Virginia, 1931, as amended, relating to the termination of the Blennerhassett Island Historical State Park Commission; exempting the termination of the commission from the wind down provisions of §4-10-12; and providing for the transfer of all remaining property and authority of the commission to the Department of Commerce.

Be it enacted by the Legislature of West Virginia:

That §29-8-2, §29-8-3, §29-8-4 and §29-8-5 the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 8. BLENNERHASSETT ISLAND HISTORICAL STATE PARK COMMISSION.

§29-8-2. Blennerhassett Island Historical State Park Commission
~~established; members; terms; meeting; quorum;~~
~~compensation; expenses~~ termination.

1 ~~(a) There is within the Division of Natural Resources the~~
2 ~~Blennerhassett Island historical state park commission. All~~
3 ~~assets, real and personal property, debts, liabilities, duties,~~
4 ~~powers and authority are the property of the division of natural~~
5 ~~resources. The Blennerhassett Island historical state park~~
6 ~~commission is maintained as an advisory commission as hereinafter~~
7 ~~provided. The commission is composed of ten members who must be~~
8 ~~citizens and residents of this state, appointed by the Governor for~~
9 ~~terms of four years, by and with the advice and consent of the~~
10 ~~Senate. Provided, That the terms of all members previously~~
11 ~~appointed to the Blennerhassett Island historical state park~~
12 ~~commission prior to any amendment and reenactment of this section~~
13 ~~shall continue for the periods originally specified and no member~~
14 ~~-serving as of the effective date of the amendment and reenactment~~
15 ~~need be reappointed.~~

16 ~~(b) Each member must be qualified to carry out the functions~~
17 ~~of the commission under this article by reason of his or her~~
18 ~~special interest, training, education or experience.~~

19 ~~No person may be eligible to appointment as a member who is an~~
20 ~~officer or member of any political party executive committee; or~~
21 ~~the holder of any other public office or public employment under~~
22 ~~the United States government or the government of this state or a~~
23 ~~political subdivision of this state. Not more than six members may~~
24 ~~belong to the same political party.~~

1 ~~—— (c) The commission shall elect a chairman from among its~~
2 ~~members on the second Monday in September of each year.~~

3 ~~—— (d) All members are eligible for reappointment once by the~~
4 ~~Governor. A member shall, unless sooner removed, continue to serve~~
5 ~~until his or her term expires and his or her successor has been~~
6 ~~appointed and has qualified. A vacancy caused by the death,~~
7 ~~resignation or removal of a member prior to the expiration of his~~
8 ~~or her term shall be filled only for the remainder of term.~~

9 ~~—— (e) For the purpose of carrying out its powers, duties and~~
10 ~~responsibilities under this article, six members of the commission~~
11 ~~constitute a quorum for the transaction of business. Each member~~
12 ~~is entitled to one vote. The commission shall meet at a time and~~
13 ~~place designated by the chairman at least four times each fiscal~~
14 ~~year. Additional meetings may be held when called by the chairman~~
15 ~~or when requested by five members of the commission or by the~~
16 ~~Governor. All meetings shall comply with the provisions of article~~
17 ~~nine a, chapter six of this code. Each member shall be reimbursed~~
18 ~~for all reasonable and necessary expenses actually incurred in the~~
19 ~~performance of his or her duties under this article.~~

20 ~~—— (f) The commission shall advise the Division of Natural~~
21 ~~Resources in all matters relating to the development, establishment~~
22 ~~and maintenance of the Blennerhassett Island historical state park.~~

23 ~~—— (g) All employee positions in the former Blennerhassett Island~~
24 ~~historical state park commission transferred to the Division of~~

1 ~~Commerce by a previous amendment and reenactment of this section~~
2 ~~are continued in the classified service of the civil service system~~
3 ~~pursuant to article six of this chapter. Any person included in~~
4 ~~the classified service by the provisions of this section who is~~
5 ~~employed in any of these positions as of the effective date of any~~
6 ~~amendment and reenactment of this section shall not be required to~~
7 ~~take and pass qualifying or competitive examinations upon or as a~~
8 ~~condition to being added to the classified service: Provided, That~~
9 ~~no person included in the classified service by the provisions of~~
10 ~~this section who is employed in any of these positions as of the~~
11 ~~effective date of any amendment and reenactment of this section, be~~
12 ~~thereafter severed, removed or terminated from such employment~~
13 ~~prior to his or her entry into the classified service except for~~
14 ~~cause as if the person had been in the classified service when~~
15 ~~severed, removed or terminated.~~

16 ~~— (h) Notwithstanding any provision of this code to the~~
17 ~~contrary, the Division of Natural Resources is vested with~~
18 ~~exclusive regulatory authority over watercraft transport of~~
19 ~~visitors to the Blennerhassett Island portion of the Blennerhassett~~
20 ~~Island historical state park and the watercraft transport of these~~
21 ~~visitors is not subject to the provisions of article eighteen,~~
22 ~~chapter seventeen of this code.~~

23 ~~— (i) Notwithstanding the provisions of section fifty eight,~~
24 ~~article two, chapter twenty of this code, the Natural Resources~~

1 ~~Commission shall promulgate rules pursuant to the provisions of~~
2 ~~section seventeen, article one, chapter twenty and section three,~~
3 ~~article one, chapter twenty-nine a of this code to permit and~~
4 ~~regulate the hunting of white-tailed deer at Blennerhassett Island~~
5 ~~historical state park.~~

6 The Blennerhassett Island Historical State Park Commission
7 shall cease to exist on the first day of July, two thousand eight.
8 The termination of the commission is exempt from the wind down
9 provisions of section twelve, article ten, chapter four of this
10 code. All members of the commission duly appointed and serving
11 shall cease to hold the office or perform the duties that the
12 office may provide. All property, real or tangible, all powers,
13 expressed or implied, and all authority granted to the commission
14 transfers to the Division of Natural Resources effective upon
15 passage of this section.

16 **§29-8-3. General powers of Division of commerce Natural Resources**
17 **with respect to the Blennerhassett Island Historical**
18 **State Park.**

19 The administrator of the Division of Commerce Natural
20 Resources, with respect to developing and maintaining
21 Blennerhassett Island Historical State Park, may exercise all
22 powers and duties granted to ~~him~~ and the administrator and his or
23 her predecessor in respect to the development and operation of
24 other state parks, and in addition, is specifically authorized to:

1 (1) Establish and maintain an office in the county of Wood;

2 (2) Exercise his or her powers in the state of Ohio to the
3 extent permitted by the laws of the state of Ohio;

4 (3) Enter into any agreement with the state of Ohio or any
5 person, firm or corporation therein for the provision of
6 electricity, water, sewer and such similar services to
7 Blennerhassett Island as are necessary;

8 (4) Own or operate, or both, individually or in conjunction
9 with any other public agency or any private person, firm or
10 corporation, such facilities and equipment as he considers
11 necessary or convenient for the implementation of his duties under
12 this article. Without limiting the generality of the foregoing,
13 such facilities and equipment may include boats, docks, an
14 amphitheatre, parking facilities, the reconstructed Blennerhassett
15 mansion and other buildings; and

16 (5) ~~Promulgate rules and regulations~~ Propose rules for
17 legislative approval, in accordance with the provisions of chapter
18 twenty-nine-a of this code, to implement and make effective the
19 powers and duties vested ~~in him by the provisions of~~ provided in
20 this article and take such other steps as may, ~~in his discretion,~~
21 be necessary or expedient for the proper and effective development
22 of Blennerhassett Island and related locations in the county of
23 Wood into a major educational, cultural and recreational
24 attraction.

1 §29-8-4. Duties of Division of commerce Natural Resources with
2 respect to the development of Blennerhassett Island.

3 Within the limit of funds available from this state, the
4 United States and any other source, whether public or private, the
5 administrator shall:

6 (1) Plan and execute a program for the development of
7 educational, cultural and recreational attractions related to
8 events known or believed to have occurred on and near
9 Blennerhassett Island; and

10 (2) Plan and execute a program for the development of
11 Blennerhassett Island and related locations in the county of Wood
12 so as to preserve and enhance the island and related locations as
13 a significant historical, natural and archaeological resource of
14 importance to this state and the nation.

15 ~~In carrying out his duties under subdivisions (1) and (2) of~~
16 ~~this section, he shall, as near as practicable, adhere to the~~
17 ~~recommendations and plans for development contained in the~~
18 ~~documents prepared for the Blennerhassett historical commission,~~
19 ~~submitted to the Blennerhassett historical park commission on the~~
20 ~~eighteenth day of February, one thousand nine hundred seventy-five,~~
21 ~~and titled as follows: (a) Summary report for the development of~~
22 ~~Blennerhassett Island, (b) physical master plan, (c) interpretive~~
23 ~~master plan, (d) environmental impact and (e) market and economic~~
24 ~~impact.~~

1 §29-8-5. Cooperation of state agencies and local government with
2 ~~Blennerhasset historical state park commission and the~~
3 ~~Division of commerce~~ Natural Resources; powers of local
4 government with respect to development.

5 (a) All other state and local governmental personnel and
6 agencies shall cooperate to the fullest possible extent with the
7 commission and the division to accomplish the proper and effective
8 development of Blennerhasset Island and related locations in the
9 county of Wood into a major educational, cultural and recreational
10 attraction.

11 (b) The county of Wood, the city of Parkersburg, any other
12 municipality in the county and any board, commission, authority,
13 agency or other ~~office created under authority thereof~~ authorized
14 legal entity may, ~~in its discretion,~~ engage in any activity or
15 undertaking designed to assist ~~the commission and the division~~ in
16 the proper and effective development of Blennerhasset Island and
17 related locations in the county of Wood into a major educational,
18 cultural and recreational attraction.

NOTE: The purpose of this bill is to terminate the Blennerhasset Island Historical State Park Commission. The termination shall be exempt from the wind down provisions of §4-10-12. This action was recommended by the Legislative Auditor, the members of the Commission, the Department of Commerce and the Blennerhasset Foundation.

1 H. B. / S. B.

2
3 (By Delegates and Senators)

4 [Introduced ; referred to the
5 Committee on .]

6
7
8
9
10 A BILL to amend and reenact §21-3C-1, §21-3C-2, §21-3C-7, §21-3C-8,
11 §21-3C-11 and §21-3C-12 of the Code of West Virginia, 1931, as
12 amended, and to further amend said code by adding thereto a
13 new section, designated §21-3C-10a, relating to the Elevator
14 Safety Act; requiring annual inspections of elevators;
15 requiring elevator mechanics to be licensed by the Division of
16 Labor; authorizing legislative rules; providing for fees; and
17 providing civil and criminal penalties for noncompliance.

18 *Be it enacted by the Legislature of West Virginia:*

19 That §21-3C-1, §21-3C-2, §21-3C-7, §21-3C-8, §21-3C-11 and
20 §21-3C-12 of the Code of West Virginia, 1931, as amended, be
21 amended and reenacted; and that said code be further amended by
22 adding thereto a new section, designated §21-3C-10a, all to read as
23 follows:

24 **CHAPTER 21. DIVISION OF LABOR.**

25 **ARTICLE 3C. ELEVATOR SAFETY.**

1 **§21-3C-1. Definitions.**

2 (1) "Certificate of acceptance" means a certificate issued by
3 the Division of Labor certifying that a newly installed elevator
4 has been inspected and was found to be installed in compliance with
5 the safety standards set forth in the American Society of
6 Mechanical Engineers Safety Code for Elevators and Escalators
7 (ASME) A17.1-3, "Safety Code for Elevators" and ASME A18.1, "Safety
8 Code for Platform Lifts and Stairway Chairlifts."

9 (2) "Certificate of competency" means a certificate issued by
10 the Division of Labor certifying that an individual is qualified to
11 inspect elevators.

12 (3) "Certificate of operation" means a certificate issued by
13 the Division of Labor certifying that an elevator has been
14 inspected and is safe for operation.

15 (4) "Commissioner" means the Commissioner of the Division of
16 Labor.

17 ~~(4)~~ (5) "Division" means the Division of Labor.

18 ~~(5)~~ (6) "Division inspector" means an employee or contractor
19 of the division who has been examined and issued a certificate of
20 competency and who only inspects elevators in state owned
21 buildings.

22 ~~(6)~~ (7) "Elevator" means all the machinery, construction,
23 apparatus and equipment used in raising and lowering a car, cage or
24 platform vertically between permanent rails or guides and includes

1 all elevators, power dumbwaiters, escalators, gravity elevators and
2 other lifting or lowering apparatus permanently installed between
3 rails or guides, but does not include hand operated dumbwaiters,
4 manlifts of the platform type with a platform area not exceeding
5 nine hundred square inches, construction hoists or other similar
6 temporary lifting or lowering apparatus.

7 (8) "Elevator apprentice" means a person who meets the
8 requirements set forth in legislative rule promulgated pursuant to
9 this article.

10 (9) "Elevator mechanic" means a person who possesses an
11 elevator mechanic's license in accordance with the provisions of
12 this article and who is engaged in the business of erecting,
13 constructing, installing, altering, servicing, repairing or
14 maintaining elevators or related conveyances covered by this
15 article.

16 ~~(7)~~ (10) "Freight elevator" means an elevator used for
17 carrying freight and on which only the operator, by the permission
18 of the employer, is allowed to ride.

19 ~~(8)~~ (11) "Inspector" means both a division inspector and a
20 private inspector.

21 (12) "License" means a license issued to an elevator mechanic
22 pursuant to this article.

23 ~~(9)~~ (13) "Limited use/limited access elevator" means a
24 passenger elevator of which use is limited by size, capacity, rise

1 and speed, and access is limited by its location, by the
2 requirement of a key for its operation or by other restriction.

3 ~~(10)~~ (14) "Passenger elevator" means an elevator that is
4 designed to carry persons to its contract capacity.

5 ~~(11)~~ (15) "Private inspector" means a person who has been
6 examined and issued a certificate of competency to inspect
7 elevators within this state.

8 **§21-3C-2. Inspectors; application; ~~examination; certificates of~~**
9 **~~competency. reexamination.~~**

10 (a) No person may serve as an inspector unless he or she
11 successfully completes the examination ~~required by this section~~
12 for Qualified Elevator Inspector (OEI) from an examination
13 organization approved by the Commissioner and holds a certificate
14 of competency for elevator inspections issued by the division.

15 (b) The application ~~for examination~~ for elevator inspector
16 shall be in writing, accompanied by a fee of ten dollars, upon a
17 form furnished by the division. The applicant shall state his or
18 her ~~social security number,~~ level of education, previous employers,
19 the period of employment, the position held with each employer,
20 and other information required by the division. The applicant
21 shall also submit a copy of his or her OEI card, and a letter from
22 one of his or her previous employers concerning his or her
23 character and experience.

24 (c) Applications which contain any willfully submitted false

1 or untrue information shall be rejected.

2 ~~(d) The division shall administer an examination to a~~
3 ~~qualified applicant testing the applicant's knowledge of the~~
4 ~~construction, installation, operation, maintenance and repair of~~
5 ~~elevators and accessories.~~

6 ~~(e)~~ (d) The division shall issue a certificate of competency
7 for elevator inspections to an applicant who successfully completes
8 the examination and who complies with the requirements of this
9 article and legislative rules promulgated by the division.

10 ~~(f) An applicant who fails to successfully complete an initial~~
11 ~~examination may submit an application for a second examination~~
12 ~~ninety days or more after the initial examination. The second~~
13 ~~application must be accompanied by the ten dollar examination fee.~~
14 ~~Should an applicant fail to successfully complete the prescribed~~
15 ~~examination on the second trial, he or she is not permitted to~~
16 ~~submit an application for another examination for a period of one~~
17 ~~year after the second failure.~~

18 ~~(g)~~ (e) Any person hired as a private inspector by a county or
19 municipality shall possess a certificate of competency issued by
20 the division.

21 ~~(h)~~ (f) The division may hire division inspectors or enter
22 into a contract for the services of a division inspector so long as
23 the inspector has been certified competent by the division. The
24 division may hire an inspector supervisor who shall supervise the

1 inspection activities under this article.

2 **§21-3C-7. Safety equipment.**

3 Every passenger elevator, ~~whether not such elevator has been~~
4 ~~in use for five years or longer,~~ shall be equipped, maintained and
5 operated in a safe manner in accordance with legislative rules
6 promulgated by the division as authorized by this article.

7 **§21-3C-8. Certificate of operation; renewal.**

8 A certificate of operation for any elevator may not be issued
9 until the elevator has been inspected for safety and the inspection
10 report filed with the division. ~~With the exception of the~~
11 ~~acceptance inspection, only elevators which have been installed for~~
12 ~~five years or more shall be required to be inspected.~~ The
13 certificate of operation shall list the date of inspection and
14 shall expire one year after the date of inspection. The
15 certificate of operation shall be conspicuously posted in the
16 elevator at all times. An expired certificate of operation shall
17 be renewed in the manner that the prior certificate was obtained.

18 **§21-3C-10a. License requirements for elevator mechanics;**
19 **contractors license required; supervision of elevator**
20 **apprentices required.**

21 (a) On and after the first day of January, two thousand ten,
22 no person may engage or offer to engage in the business of
23 erecting, constructing, installing, altering, servicing, repairing
24 or maintaining elevators or related conveyances covered by this

1 article in this state, unless he or she has a license issued by the
2 Commissioner of Labor in accordance with the provisions of this
3 article.

4 (b) A person licensed under this article must:

5 (1) Have in his or her possession a copy of the license issued
6 pursuant to this article on any job on which he or she is
7 performing elevator mechanic work; and

8 (2) Be, or be employed by, a contractor licensed pursuant to
9 the provisions of article eleven, chapter twenty-one of this code.

10 (c) An elevator apprentice may work only under the direct
11 supervision of a licensed elevator mechanic, as set forth in
12 legislative rules promulgated pursuant to this article.

13 **§21-3C-11. Disposition of fees; legislative rules.**

14 (a) The Division shall propose ~~for promulgation~~ legislative
15 ~~rules pursuant to~~ rules for legislative approval in accordance with
16 the provisions of article three, chapter twenty-nine-a of this
17 code, ~~in order to implement~~ for the implementation and enforcement
18 of the provisions of this article, which shall provide:

19 (1) Standards, qualifications and procedures for submitting
20 applications, taking examinations, and issuing and renewing
21 licenses, certificates of competency and certificates of operation;

22 (2) Qualifications and supervision requirements for elevator
23 apprentices;

24 (3) Provisions for the granting of licenses without

1 examination, to applicants who present satisfactory evidence of
2 having the expertise required to perform work as defined in this
3 article and who apply for licensure on or before the first day of
4 July, two thousand ten; Provided, That if a license issued under
5 the authority of this subsection subsequently lapses, the applicant
6 may, at the discretion of the Commissioner, be subject to all
7 licensure requirements, including the examination;

8 (4) Provisions for the granting of emergency licenses in the
9 event of an emergency due to disaster, act of God or work stoppage
10 when the number of persons in the state holding licenses issued
11 pursuant to this article is insufficient to cope with the
12 emergency;

13 (5) Provisions for the granting of temporary licenses in the
14 event that there are no elevator mechanics available to engage in
15 the work of an elevator mechanic as defined by this article;

16 (6) Continuing education requirements;

17 (7) Reciprocity provisions;

18 (8) Procedures for investigating complaints and revoking or
19 suspending licenses, certificates of competency and certificates of
20 operation, including appeal procedures;

21 (9) Fees for testing, issuance and renewal of licenses,
22 certificates of competency and certificates of operation, and other
23 costs necessary to administer the provisions of this article;

24 (10) Enforcement procedures; and

1 (11) Any other rules necessary to effectuate the purposes of
2 this article.

3 (b) The rules proposed for promulgation pursuant to subsection
4 (a) of this section shall establish the amount of any fee
5 authorized pursuant to the provisions of this article: *Provided,*
6 That in no event may the fees established for the issuance of
7 permits certificates of operation exceed fifty dollars.

8 (c) All fees collected pursuant to the provisions of this
9 article shall be deposited in an appropriated special revenue
10 account hereby created in the State Treasury known as the "Elevator
11 Safety Fund" and expended for the implementation and enforcement of
12 this article: *Provided,* That amounts collected which are found
13 from time to time to exceed funds needed for the purposes set forth
14 in this article may be transferred to other accounts or funds and
15 redesignated for other purposes by appropriation of the
16 Legislature.

17 (d) The Division may enter into agreements with counties and
18 municipalities whereby such counties and municipalities be
19 permitted to retain the inspection fees collected to support the
20 enforcement activities at the local level.

21 (e) The Commissioner and his or her Deputy Commissioner or any
22 compliance officer of the Division as authorized by the
23 Commissioner may consult with engineering authorities and
24 organizations concerned with standard safety codes, rules and

1 regulations governing the operation, maintenance, servicing,
2 construction, alteration, installation and the qualifications which
3 are adequate, reasonable and necessary for the elevator mechanic
4 and inspector.

5 **§21-3C-12. Penalties.**

6 ~~Any person who violates any provision of this article or any~~
7 ~~directive or order issued pursuant thereto is guilty of a~~
8 ~~misdemeanor and, upon conviction thereof, shall be fined not less~~
9 ~~than fifty dollars nor more than one thousand dollars per day.~~
10 ~~Each day the violation continues constitutes a separate offense.~~

11 (a) On and after the first day of January, two thousand ten,
12 the Commissioner may issue a cease and desist order to any person
13 engaging in the business of erecting, constructing, installing,
14 altering, servicing, repairing or maintaining elevators or related
15 conveyances covered by this article in this state without a
16 license, or inspecting elevators or related conveyances covered by
17 this article without a certificate of competency, or operating an
18 elevator or related conveyance covered by this article without a
19 certificate of operation.

20 (b) Any person who violates a cease and desist order is guilty
21 of a misdemeanor and, upon conviction thereof, is subject to the
22 following penalties:

23 (1) For the first offense, a fine of not less than two hundred
24 dollars nor more than one thousand dollars;

1 (2) For the second offense, a fine of not less than five
2 hundred dollars nor more than two thousand dollars, or confinement
3 in jail for not more than six months, or both;

4 (3) For the third and subsequent offenses, a fine of not less
5 than one thousand dollars nor more than five thousand dollars, and
6 confinement in jail for not less than thirty days nor more than one
7 year.

8 (c) Each day that a person violates a cease and desist order
9 or is otherwise not in compliance with the provisions of this
10 article constitutes a separate offense.

11 (d) The Commissioner of Labor may institute proceedings in the
12 circuit court of the county where the alleged violation of the
13 provisions of this article occurred or are occurring to enjoin any
14 violation of any provision of this article. A circuit court by
15 injunction may compel compliance with the provisions of this
16 article, with the lawful orders of the Commissioner of Labor and
17 with any final decision of the Commissioner of Labor. The
18 Commissioner of Labor shall be represented in all such proceedings
19 by the Attorney General or his or her assistants.

H. B. / S. B.

(By Delegates and Senators)

[Introduced ; referred to .]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-46A-1, §33-46A-2, §33-46A-3, §33-46A-4, §33-46A-5, §33-46A-6, §33-46A-7, §33-46A-8, §33-46A-9, §33-46A-10 and §33-46A-11, all relating to Professional Employer Organizations; providing declaration of purpose and intent; providing definitions; clarifying rights, duties and obligations unaffected by the article; requiring license from the Insurance Commissioner to engage in the business of a Professional Employer Organization; setting forth licensure requirements; providing for legislative and emergency rules; authorizing the Insurance Commissioner to establish licensure and other fees; setting forth requirements for Professional Employer Agreements; allocating tax credits, status, incentives and liability; providing requirements for workers' compensation coverage; providing requirements for

1 unemployment compensation coverage; providing enforcement
2 measures including penalties; requiring study of health plans;
3 and prohibiting self-funded health plans.

4 *Be it enacted by the Legislature of West Virginia:*

5 That the Code of West Virginia, 1931, as amended, be amended
6 by adding thereto a new article, designated §33-46A-1, §33-46A-2,
7 §33-46A-3, §33-46A-4, §33-46A-5, §33-46A-6, §33-46A-7, §33-46A-8,
8 §33-46A-9, §33-46A-10 and §33-46A-11, all to read as follows:

9 **CHAPTER 33. INSURANCE.**

10 **ARTICLE 46A. PROFESSIONAL EMPLOYER ORGANIZATIONS.**

11 **§33-46A-1. Purpose and intent.**

12 The Legislature hereby finds that:

13 (1) Professional employer organizations (hereinafter "PEOs")
14 provide a valuable service to commerce and the citizens of this
15 state by increasing the opportunities of employers to develop cost-
16 effective methods of satisfying their personnel requirements and
17 providing employees with access to certain employment benefits
18 which might otherwise not be available to them;

19 (2) PEOs operating in this state should be properly
20 recognized and regulated by the Insurance Commissioner; and

21 (3) Any allocation of employer duties and responsibilities
22 between a PEO and a client-employer pursuant to this article should
23 preserve all rights to which covered employees would be entitled
24 under a traditional employment relationship.

1 §33-46A-2. Definitions.

2 (a) "Administrative fee" means the amount charged to a
3 client-employer by a PEO for professional employer services. It
4 does not include amounts paid by a client-employer to the PEO for
5 wages and salaries, benefits, payroll taxes, withholding, or
6 assessments paid by the PEO to or on behalf of covered employees
7 under the professional employer agreement.

8 (b) "Client-employer" means an employer who enters into a
9 professional employer agreement with a PEO.

10 (c) "Commissioner" means the Insurance Commissioner of West
11 Virginia.

12 (d) "Covered employee" means a person employed by a client-
13 employer pursuant to the terms of a PEO agreement or by operation
14 of law. Persons who are officers, directors, shareholders,
15 partners, and managers of the client-employer and who perform day-
16 to-day operational services for the client-employer will be covered
17 employees to the extent expressly set forth in the professional
18 employer agreement.

19 (e) "PEO group" means two or more PEOs that are majority
20 owned or commonly controlled by the same entity, parent, or
21 controlling persons.

22 (f) "Person" means a natural person or a legal entity,
23 including, without limitation, a sole proprietorship, firm,
24 partnership, limited liability company, association, trust or

1 corporation.

2 (g) "Professional employer agreement" means a written
3 contract by and between a client-employer and a PEO under which a
4 PEO contracts to provide professional employer services for an
5 administrative fee.

6 (h) "Professional employer organization" or "PEO" means a
7 person engaged in the business of providing professional employer
8 services, regardless of its use of the term, or conducting business
9 as a "staff leasing company," "registered staff leasing company,"
10 "employee leasing company," "administrative employer," or any other
11 name. For purposes of this article, the following is not a PEO:

12 (1) A person who shares employees with a commonly-owned
13 company within the meaning of section 414(b) and (c) of the
14 Internal Revenue Code of 1986, as amended, but neither holds itself
15 out as a PEO nor enters into professional employer agreements as
16 its principal business activity;

17 (2) An independent contractor who assumes responsibility for
18 the product produced or service performed by a person or his or her
19 agents and who retains and exercises primary direction and control
20 over the work performed; or

21 (3) A person who provides temporary help services.

22 (i) "Professional employer services" means functions which
23 are customarily exercised by an employer with respect to its
24 employees, including but not limited to hiring, firing and

1 disciplining employees, paying wages, withholding and paying
2 payroll taxes and maintaining employee benefit plans other than
3 health insurance plans, as allocated to a PEO in a PEO agreement.

4 (j) "Worksite employees" means persons employed by a PEO and
5 not by a client-employer.

6 §33-46A-3. Rights, duties and obligations unaffected by this
7 article.

8 (a) Nothing in this article or in any professional employer
9 agreement affects, modifies or amends any collective bargaining
10 agreement, or the rights or obligations of a client-employer, PEO,
11 or covered employee under the Federal National Labor Relations
12 Article, the Federal Railway Labor Article or article one-a,
13 chapter twenty-one of this code.

14 (b) Nothing in this article or in any professional employer
15 agreement:

16 (1) Diminishes, abolishes or removes rights of covered
17 employees as to a client-employer or obligations of a client-
18 employer to covered employees existing prior to the effective date
19 of the professional employer agreement;

20 (2) Affects, modifies, or amends any contractual relationship
21 or restrictive covenant between a covered employee and a client-
22 employer in effect at the time a professional employer agreement
23 becomes effective;

24 (3) Prohibits or amends or any contractual relationship or

1 restrictive covenant that is entered into subsequent to the
2 effective date of a professional employer agreement between a
3 client-employer and a covered employee; or

4 (4) Diminishes, abolishes or removes the legal obligations of
5 an employer to its employees.

6 (c) A PEO has no responsibility or liability in connection
7 with, or arising out of, any existing or new contractual
8 relationship or restrictive covenant between a covered employee and
9 a client-employer unless the PEO has specifically agreed otherwise
10 in writing.

11 (d) This article does not create any new or additional
12 enforceable right of a covered employee against a PEO that is not
13 specifically provided by the professional employer agreement, this
14 article or by operation of law.

15 (e) A PEO is entitled to enforce only those employer rights
16 and is subject to only those obligations specifically allocated to
17 the PEO by the professional employer agreement or this article;

18 (f) The client-employer is entitled to enforce those rights
19 and obligated to perform those obligations allocated by the
20 professional employer agreement and this article, as well as any
21 rights and obligations of an employer not specifically allocated to
22 the PEO by the professional employer agreement, this article or by
23 operation of law.

24 (f) Nothing in this article or any professional employer

1 agreement affects, modifies or amends any state, local or federal
2 licensing, registration or certification requirement applicable to
3 a client-employer or covered employee.

4 §33-46A-4. Licensing requirements.

5 (a) Except as otherwise provided in this article, no person
6 may provide, advertise, or otherwise hold himself, herself or
7 itself out as providing professional employer services to client-
8 employers in this state, unless licensed under this article.

9 (b) Every PEO operating within this state as of the effective
10 date of this article must obtain a license under this article no
11 later than the thirtieth day of September, two thousand eight.

12 (c) Each applicant for licensure under this article shall
13 provide the commissioner with the following information:

14 (1) The name or names under which the PEO conducts business;

15 (2) The address of the principal place of business of the PEO
16 and the address of each office it maintains in this state;

17 (3) The PEO's taxpayer or employer identification number;

18 (4) A list by jurisdiction of each name under which the PEO
19 has operated in the preceding five years, including any alternative
20 names, names of predecessors and, if known, successor business
21 entities;

22 (5) A statement of ownership, which shall include the name
23 and evidence of the business experience of any person who,
24 individually or acting in concert with one or more other persons,

1 owns or controls, directly or indirectly, twenty-five percent or
2 more of the equity interests of the PEO;

3 (6) A statement of management, which shall include the name
4 and evidence of the business experience of any person who serves as
5 president, chief executive officer, or otherwise has the authority
6 to act as senior executive officer of the PEO; and

7 (7) The PEO's most recent audited financial statement setting
8 forth the financial condition of the PEO or PEO Group, which may
9 not be older than thirteen months. The financial statement shall
10 be prepared in accordance with generally accepted accounting
11 principles, and audited by an independent certified public
12 accountant licensed to practice in the jurisdiction in which the
13 accountant is located, and shall be without qualification as to the
14 going concern status of the PEO.

15 (d) An applicant may apply to the commissioner for an
16 extension of time for filing its financial statement. A request
17 for an extension must be accompanied by a letter from an
18 independent certified public accountant licensed to practice in the
19 jurisdiction in which the accountant is located, stating the
20 reasons for the delay and the anticipated completion date of the
21 financial statement.

22 (e) A PEO who has not had sufficient operating history to
23 have an audited financial statement based upon at least twelve
24 months of operating history must meet the financial capacity

1 requirements set forth in subsection (h) of this section, and
2 present financial statements reviewed by an independent certified
3 public accountant licensed to practice in the jurisdiction in which
4 the accountant is located.

5 (f) PEOs in a PEO group may satisfy the reporting and
6 financial requirements of this licensing law on a combined or
7 consolidated basis provided that each member of the PEO Group
8 guarantees the obligations under this article of each other member
9 of the PEO Group. In the case of a PEO Group that submits a
10 combined or consolidated audited financial statement including
11 entities that are not PEOs or that are not in the PEO Group, the
12 controlling entity of the PEO Group under the consolidated or
13 combined statement must guarantee the obligations of the PEOs in
14 the PEO Group.

15 (g) Within one hundred eighty days after the end of a
16 licensee's fiscal year, the licensee shall apply for renewal of its
17 license by submitting its most recent audited financial statement
18 meeting the same requirements as for initial licensure, together
19 with any changes in the information required for initial licensure,
20 all as set forth by subsection (c) of this section.

21 (h) Except for limited licenses granted in accordance with
22 the provisions of subsection (i) of this section, each PEO shall
23 maintain a minimum of one hundred thousand dollars in working
24 capital, as defined by generally accepted accounting principles and

1 as reflected in the financial statements submitted to the
2 commissioner with the application for initial or renewal license.

3 (i) The commissioner may grant a PEO domiciled outside this
4 state a limited license for such time periods as he or she
5 determines is appropriate, subject to the following requirements:

6 (1) The applicant for a limited license must submit a request
7 on a form provided by the commissioner;

8 (2) The applicant must demonstrate that it:

9 (A) Is domiciled outside this state;

10 (B) Is licensed or registered as a professional employer
11 organization in another state under terms that are substantially
12 similar to the requirements of this article;

13 (C) Does not maintain an office in this state or directly
14 solicit client-employers located or domiciled within this state;
15 and

16 (D) Does not have more than fifty covered employees employed
17 or domiciled in this state on any given day.

18 (j) All records, reports and other information obtained from
19 a PEO under this article, except for the information required by
20 subsection (c) of this section, and except to the extent necessary
21 for the proper administration of this article by the commissioner
22 or his or her agents, is confidential and may not be published or
23 open to public inspection other than to public employees in the
24 performance of their public duties.

1 §33-46A-5. Rulemaking authority; fees.

2 (a) Except as provided in section eight of this article, the
3 commissioner may propose rules for legislative approval in
4 accordance with the provisions of article three, chapter twenty-
5 nine-a of this code, to implement the provisions of this article,
6 including:

7 (1) Procedures for the issuance and renewal of licenses;

8 (2) Procedures for denying, suspending, revoking, reinstating
9 or limiting the practice of a licensee;

10 (3) Requirements for activating inactive or revoked licenses;

11 (4) Special financial requirements for small, start-up PEOs;

12 (5) A schedule of fees; and

13 (6) Any other rules necessary to implement the provisions of
14 this article.

15 (b) The commissioner may promulgate emergency rules pursuant
16 to the provisions of section fifteen, article three, chapter
17 twenty-nine-a of this code, for any purposes set forth for
18 legislative rules in subsection (a) of this section.

19 (c) All rules in effect on the effective date of this
20 article, including legislative exempt rules, remain in effect until
21 amended or repealed.

22 §33-46A-6. Requirements for provisions of PEO agreements; general
23 requirements and provisions.

24 (a) Each professional employer agreement shall allocate the

1 responsibility to:

2 (1) Pay wages to covered employees;

3 (2) Withhold, collect, report and remit payroll-related and
4 unemployment taxes; and,

5 (3) Make payments for employee benefits on behalf of covered
6 employees.

7 (b) Each professional employer agreement shall provide that
8 the client-employer shall retain the right to hire, discipline, and
9 terminate a covered employee: Provided, That the PEO shall have the
10 right to terminate a professional employer agreement if a client-
11 employer refuses without good cause a request from the PEO that the
12 client-employer discipline or terminate a covered employee as may
13 be necessary to fulfill the PEO's responsibilities under this
14 article and the professional employer agreement.

15 (c) Except to the extent otherwise expressly provided by the
16 applicable professional employer agreement:

17 (1) A client-employer is solely responsible for the quality,
18 adequacy or safety of the goods or services produced or sold in
19 client-employer's business;

20 (2) A client-employer is solely responsible for directing,
21 supervising, training and controlling the work of a covered
22 employee, and is solely responsible for the acts, errors or
23 omissions of a covered employee, when the covered employee is
24 engaged in the business activities of the client-employer;

1 (3) A client-employer is not liable for the acts, errors or
2 omissions of a PEO, or of a covered employee of the client-employer
3 when the covered employee is acting under the express direction and
4 control of the PEO; and

5 (4) A PEO is not liable for the acts, errors or omissions of
6 a client-employer or of a covered employee of the client-employer
7 when the covered employee is acting under the express direction and
8 control of the client-employer.

9 (d) A covered employee is not, solely as the result of being
10 a covered employee of a PEO, an employee of the PEO for purposes of
11 general liability insurance, fidelity bonds, surety bonds, or
12 liquor liability insurance carried by the PEO, unless the covered
13 employee is included by specific reference in the professional
14 employer agreement and applicable prearranged employment contract,
15 insurance contract or bond.

16 **§33-46A-7. Tax credits, status, incentives and liability.**

17 (a) A client-employer is entitled to the benefit of any tax
18 credit, economic incentive or other benefit arising as the result
19 of the employment of covered employees. Each PEO shall provide,
20 upon request by a client-employer or an agency of this state,
21 employment information reasonably required by the agency
22 responsible for administration of any the tax credit or economic
23 incentive and necessary to support any request, claim, application,
24 or other action by a client-employer seeking the tax credit or

1 economic incentive.

2 (b) With respect to a bid, contract, purchase order, or
3 agreement entered into with the state or a political subdivision of
4 the state, a client-employer company's status or certification as
5 a small, minority-owned, disadvantaged, or woman-owned business
6 enterprise or as a historically underutilized business is not
7 affected because the client-employer company has entered into an
8 agreement with a PEO or uses the services of a PEO.

9 (c) This article does not relieve a client-employer of any
10 sales tax liability with respect to its goods or to the services of
11 its covered employees.

12 (d) Any tax upon professional employer services or any
13 business license or other fee which is based upon gross receipts is
14 limited to the administrative fee of the PEO.

15 (e) Any tax assessed on a per capita or per employee basis
16 shall be assessed against the client-employer for covered employees
17 and against the professional employer organization for its worksite
18 employees.

19 (f) In the case of tax imposed or calculated upon the basis
20 of total payroll, the professional employer organization is
21 eligible to apply any small business allowance or exemption
22 available to the client-employer for the covered employees for the
23 purpose of computing the tax.

24 §33-46A-8. Workers' compensation.

1 (a) The responsibility to obtain workers' compensation
2 coverage for covered employees in compliance with all applicable
3 law shall be specifically allocated in the professional employer
4 agreement to either the client-employer or the PEO.

5 (b) If the responsibility is allocated to the PEO under the
6 agreement:

7 (1) The agreement shall require that the PEO maintain and
8 provide workers' compensation coverage for the covered employees
9 from a carrier authorized to do business in this state: *Provided,*
10 That the provisions of section seven, article two, chapter twenty-
11 three of this chapter may not be abrogated by a PEO agreement and
12 the client-employer shall at all times remain ultimately liable
13 under chapter twenty-three of this code to provide workers'
14 compensation coverage for its covered employees;

15 (2) The insurer shall report:

16 (A) Payroll and claims data for each client-employer to the
17 commissioner or his or her designated advisory organization in a
18 manner that identifies both the client-employer and PEO; and

19 (B) Coverage status with respect to each client-employer in
20 accordance with the proof of coverage requirements provided for in
21 statute and rules.

22 (c) Workers' compensation coverage may be provided:

23 (1) On a master policy basis, under which a single policy
24 issued to the PEO provides coverage for more than one client-

1 employer, and may also provide coverage to the PEO with respect to
2 its worksite employees;

3 (2) On a multiple coordinated policy basis, under which a
4 separate policy is issued to or on behalf of each client-employer
5 or group of affiliated client-employers with certain payment
6 obligations and policy communications coordinated through the PEO;
7 or

8 (3) On any other basis approved by the commissioner.

9 (d) This article does not prohibit grouping together the
10 client-employers of a PEO for the purposes of offering dividend
11 eligibility, applying a discount to the premium charged, applying
12 a retrospective rating option arrangement or the use of any other
13 loss sensitive rating options or large deductible policies as
14 allowed under state law.

15 (e) The protection of the exclusive remedy provision of
16 section six, article two, chapter twenty-three of this code, shall
17 apply to the PEO, the client-employer, and to all covered employees
18 and other employees of the client-employer irrespective of whether
19 the PEO or the client-employer obtains the workers' compensation
20 coverage.

21 (f) The commissioner shall propose rules in accordance with
22 the provisions of subsection (c), section five, article two-c,
23 chapter twenty-three of this code, for adoption by the Industrial
24 Council, to effectuate the purposes of this section, including the

1 manner in which notice of default of a master policy must be given
2 to client-employers.

3 **§33-46A-9. Unemployment compensation insurance.**

4 (a) For purposes of article one-a, chapter twenty one-a of
5 this code, covered employees of a registered PEO are considered the
6 employees of the PEO, which shall be responsible for the payment of
7 contributions, penalties, and interest on wages paid by the PEO to
8 its covered employees during the term of the applicable
9 professional employer agreement.

10 (b) The PEO shall report and pay all required contributions
11 to the unemployment compensation fund using the state employer
12 account number and the contribution rate of the PEO.

13 **§33-46A-10. Enforcement; penalties.**

14 (a) No person may offer or provide professional employer
15 services or use the names PEO, professional employer organization,
16 staff leasing, employee leasing, administrative employer or other
17 title representing professional employer services without holding
18 a license issued under the provisions of this article.

19 (b) The commissioner shall deny, suspend or revoke the license
20 of a PEO if he or she finds that the PEO:

21 (1) Is in an unsound financial condition;

22 (2) Is using methods or practices in the conduct of its
23 business that render its transaction of business in this state
24 hazardous or injurious to its client-employers or the public; or

1 (3) Has failed to pay a judgment rendered against it in this
2 state within sixty days after the judgment has become final.

3 (c) The commissioner may, after notice and opportunity for a
4 hearing in accordance with the provisions of article two, chapter
5 thirty-three of this code, deny, suspend or revoke the license of
6 a PEO if the commissioner finds that the PEO:

7 (1) Has violated any lawful rule or order of the commissioner
8 or any provision of the insurance laws of this state;

9 (2) Has refused to be examined or to produce its accounts,
10 records and files for examination, or if any person responsible for
11 the conduct of affairs of the PEO has refused to give information
12 with respect to its affairs, or has refused to perform any other
13 legal obligation as to an examination, when required by the
14 commissioner. For purposes of this section, persons responsible
15 for the conduct of affairs of the PEO include but are not limited
16 to members of the board of directors, board of trustees, executive
17 committee or other governing board or committee; the principal
18 officers in the case of a corporation or the partners or members in
19 the case of a partnership, association or limited liability
20 company; any shareholder or member holding directly or indirectly
21 ten percent or more of the voting stock, voting securities or
22 voting interest of the administrator; and any other person who
23 exercises control or influence over the affairs of the PEO;

24 (3) Has, without just cause, refused to pay proper claims or

1 perform services arising under its contracts or has, without just
2 cause, caused covered employees to accept less than the amount due
3 them or caused covered employees to employ attorneys or bring suit
4 against the PEO to secure full payment or settlement of their
5 claims;

6 (4) At any time fails to meet any qualification for which
7 issuance of the license could have been refused;

8 (5) Has been convicted of, or has entered a plea of guilty or
9 no contest to, a felony without regard to whether the adjudication
10 was withheld; or

11 (6) Is under suspension or revocation in another state.

12 (c) The commissioner may, in his or her discretion and without
13 advance notice or hearing, immediately suspend the license of an
14 PEO if the commissioner finds that one or more of the following
15 circumstances exist:

16 (1) The PEO is insolvent or impaired;

17 (2) A proceeding for receivership, conservatorship,
18 rehabilitation or other delinquency proceeding regarding the PEO
19 has been commenced in any state; or

20 (3) The financial condition or business practices of the PEO
21 otherwise pose an imminent threat to the public health, safety or
22 welfare of the residents of this state.

23 (d) If the commissioner finds that one or more grounds exist
24 for the suspension or revocation of a license issued under this

1 article, the commissioner may, in lieu of suspension or revocation,
2 order the PEO to pay to the state of West Virginia a penalty in a
3 sum not exceeding ten thousand dollars and upon the failure of the
4 PEO to pay the penalty within thirty days after notice of the
5 penalty, the commissioner may revoke or suspend the license of the
6 PEO.

7 (e) When a license has been revoked or suspended or renewal of
8 the license refused, the commissioner may reissue, terminate the
9 suspension or renew the license when he or she is satisfied that
10 the conditions causing the revocation, suspension or refusal to
11 renew have ceased to exist and are unlikely to recur.

12 **§33-46A-11. Study of health plans; self-funded plans prohibited.**

13 (a) The Joint Committee on Government and Finance shall, in
14 consultation with the Insurance Commissioner, study PEO health
15 plans and their effect on the health insurance market, including
16 their role in insuring the uninsured and underinsured and their
17 impact on the small group market, and report back to the
18 Legislature during the regular session of 2009, on its findings,
19 conclusions and recommendations, together with drafts of any
20 legislation necessary to effectuate its recommendations.

21 (b) PEOs are prohibited from self-funding health plans for
22 covered employees of its client-employers.

1 **SB/BB**

2 (By Senators/Delegates)

3 _____
4 [Introduced 2008]
5 _____
6

7 A BILL to amend and reenact §8-13-13 of the Code of West Virginia,
8 1931, as amended, relating to authorizing municipalities to
9 file liens for delinquent service fees; and requiring
10 municipal ordinances to have assessment and collection
11 procedures for the service fees.

12 *Be it enacted by the Legislature of West Virginia:*

13 That §8-13-13 of the Code of West Virginia, 1931, as amended,
14 be amended and reenacted, to read as follows:

15 **CHAPTER 8. MUNICIPAL CORPORATIONS.**

16 **ARTICLE 13. TAXATION AND FINANCE.**

17 **PART III. SPECIAL CHARGES FOR MUNICIPAL SERVICES.**

18 **§8-13-13. Special charges for municipal services.**

19 (a) Notwithstanding any charter provisions to the contrary,
20 every municipality which furnishes any essential or special
21 municipal service, including, but not limited to, police and fire
22 protection, parking facilities on the streets or otherwise, parks
23 and recreational facilities, street cleaning, street lighting,
24 street maintenance and improvement, sewerage and sewage disposal,
25 and the collection and disposal of garbage, refuse, waste, ashes,

1 trash and any other similar matter, shall have plenary power and
2 authority to provide by ordinance for the installation,
3 continuance, maintenance or improvement of ~~such the~~ service, to
4 make reasonable regulations ~~with respect thereto~~ of the service,
5 and to impose by ordinance upon the users of ~~such the~~ service
6 reasonable rates, fees and charges to be collected in the manner
7 specified in the ordinance: *Provided*, That any sewerage and sewage
8 disposal service and any service incident to the collection and
9 disposal of garbage, refuse, waste, ashes, trash and any other
10 similar matter shall be subject to the provisions of chapter
11 twenty-four of this code.

12 (b) The municipality shall not, however, have may file a lien
13 on any property as security for payments due under such the
14 ordinance authorizing the service set out in this section. The
15 ordinance of the municipality authorizing the service set out in
16 this section, shall provide administrative procedures for
17 assessment and collection of the fees at the municipal level with
18 a right of appeal to the circuit court.

19 (c) Notwithstanding the provisions of section four, article
20 eleven of this chapter, any ordinance enacted or substantially
21 amended under the provisions of this section shall be published as
22 a Class II legal advertisement in compliance with the provisions of
23 article three, chapter fifty-nine of this code, and the publication
24 area for such publication shall be such municipality.

25 (d) In the event thirty percent of the qualified voters of the
26 municipality, by petition duly signed by them in their own

1 handwriting and filed with the recorder of the municipality within
2 fifteen days after the expiration of such publication, protest
3 against ~~such~~ the ordinance as enacted or amended, the ordinance
4 shall not become effective until it ~~shall be~~ is ratified by a
5 majority of the legal votes cast ~~thereon~~ by the qualified voters of
6 ~~such~~ the municipality at a regular municipal election or special
7 municipal election, as the governing body shall direct. Voting
8 ~~thereon~~ shall not take place until after notice of ~~such~~ the
9 submission ~~shall have been~~ is given by publication as ~~above~~
10 provided in subsection (c) of this section, for the publication of
11 the ordinance after it is adopted or substantially amended.

12 (e) The powers and authority hereby granted to municipalities
13 and to the governing bodies thereof are in addition and
14 supplemental to the powers and authority named in any charters
15 thereof.

16 (f) Notwithstanding any other provisions of this section, in
17 the event rates, fees and charges ~~herein provided for shall be~~ in
18 this section, are imposed by the governing body of any municipality
19 for the purpose of replacing and in amounts approximately
20 sufficient to replace in its general fund such amounts as shall be
21 appropriated to be paid out of ad valorem taxes upon property
22 within the municipality pursuant to an election duly called and
23 held under the constitution and laws of the state to authorize the
24 issuance and sale of general obligation bonds of the municipality
25 for public improvement purposes, in the call for ~~which~~ the election
26 it shall be stated that the governing body of the municipality

1 proposes to impose rates, fees and charges in specified amounts
2 under this section for the use of one or more of the services ~~above~~
3 specified in subsection (a) of this section, which shall be related
4 to the public improvement proposed to be made with the proceeds of
5 the bonds, no notice, publication of notice, or referendum or
6 election or other condition or prerequisite to the imposition of
7 ~~such~~ the rates, fees and charges shall be required or necessary
8 other than the legal requirements for issuance and sale of ~~such~~ the
9 general obligation bonds.

10

2

3

4

5

HOUSE/SENATE CONCURRENT RESOLUTION NO.

6

(By Delegates/Senators)

7

8

9

10 Requesting the Joint Committee on Government and Finance study
11 means for municipalities to deal with uninhabitable and/or
12 abandoned structures and properties in municipalities and
13 develop workable procedures.

14 Whereas, Uninhabited and abandoned properties not only have
15 negative aesthetic qualities, but they may be hazardous to the
16 surrounding community; and

17 Whereas, The municipality may condemn and demolish the
18 property, but it cannot obtain reimbursement for the demolition
19 costs; and

20 Whereas, Allowing a municipality to sell the property to
21 satisfy the lien and retain some of the money from the sale may be
22 a means to help the municipality recover its costs; and

23 Whereas, Developing means for municipalities to deal with
24 uninhabitable and abandoned structures and properties is in the

1 best interest of the citizens of that municipality; and

2 Whereas, Rehabilitating abandoned or uninhabitable structures
3 and properties will increase property values; and

4 Whereas, Increasing property value will help the state through
5 increasing property taxes; therefore, be it

6 *Resolved by the Legislature of West Virginia:*

7 That the Joint Committee on Government and Finance is hereby
8 requested to study means for municipalities to deal with
9 uninhabitable and/or abandoned structures and properties in
10 municipalities and develop workable procedures; and, be it

11 *Further Resolved,* That the Joint Committee on Government and
12 Finance report to the Regular Session of the Legislature, 2009, on
13 its findings, conclusions and recommendations, together with drafts
14 of any legislation necessary to effectuate its recommendations;
15 and, be it

16 *Further Resolved,* That the expenses necessary to conduct the
17 study, to prepare a report and to draft necessary legislation be
18 paid from legislative appropriations to the Joint Committee on
19 Government and Finance.

WEST VIRGINIA LEGISLATURE

LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY

2007- 2008 Interims

SENATE MEMBERS

Senator Roman W. Prezioso, Jr. Chair
Senator Jon Blair Hunter
Senator William R. Sharpe
Senator Dan Foster
Senator Donna J. Boley
Senator Don Caruth
Senator Ron Stollings

HOUSE MEMBERS

Delegate Don Perdue, Chair
Delegate Stagers
Delegate Larry Border
Delegate Barbara Hatfield
Delegate Marshall Long
Delegate Brent Boggs

Delegate Clif Moore - *nonvoting*
Delegate Ricky Moye - *nonvoting*
Delegate Ralph Rodighiero - *nonvoting*
Delegate Lock Wysong - *nonvoting*
Delegate Jack Yost - *nonvoting*

Final Report of

LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES ACCOUNTABILITY

The Legislative Oversight Commission on Health and Human Resources Accountability was appointed pursuant to the provisions of West Virginia Code §16-29E-1, *et seq*, following the 2006 Regular Session of the 77th Legislature.

During the course of the 2007- 2008 interim period the Legislative Oversight Commission on Health and Human Resources Accountability met and received information on various topics of study and other important healthcare issues from state agencies, political subdivisions, advocacy groups and other pertinent sources. The only specific study topic transferred to this commission from Select Committee D on Health was HCR 58, studying rebalancing the long-term care system. The commission therefore spent their time reviewing different programs of DHHR and different topics that were of interest in the previous interim period. The Commission **REPORTS** as follows:

MEDICAID REDESIGN

The Commission heard from Patrick Flood, Commissioner of the Department of Disabilities, Aging and Independent Living in Waterbury, Vermont regarding Medicaid redesign. Commissioner Flood has been instrumental in the "rebalancing" of Vermont's Medicaid and other public support systems resources and has been called upon by other states that are exploring the many related issues. Commissioner Flood discussed issues involving the development of community based supports and the reduction of institutional settings for the aged and disabled. He particularly focused on the fact that Vermont has made home and community based services an entitlement just as nursing home care has been for many years. This is a shift in thinking and has proved to be no more and possibly less expensive than the previous methodology of funding nursing home care first.

The Commission also heard from Marsha Morris, Commissioner, Bureau for Medical Services, Department of Health and Human Resources who provided an update regarding Mountain State Health Choices. Mountain Health Choices is designed to ensure that members receive the right care, at the right time and by the right provider through care coordination. It provides a medical home, where primary health care is provided and records are kept, for every Medicaid member. Mountain State Choices gives members a choice of benefit plans, requires responsibility, sets expectations for behavior and rewards success. It is designed to encourage healthy habits for all West Virginia Medicaid members.

The Commission **RECOMMENDS** that this topic be continued for the next Interim period and that the Legislature receive additional reports on the successes of the program and any problems that arise as the program expands statewide.

HEALTHY LIFESTYLES COALITION

The Commission met jointly with the Legislative Oversight Commission on Education Accountability regarding the Healthy Lifestyles Coalition (eg after-school programs and school-based programs.) Several testimonies were heard from a variety of sources. Those presenting were: Sandy Murphy, Chair, Implementing an Early Care and Education System; Dr. Carol Harris and Dr. Drew Bradlyn, Health Research Center, WVU; Lynn Sobolov, Co-Chair, Vision 4 Our Children; Janny Seline, Member, Morgantown City Council; Jane Hange, Director, WV Statewide Afterschool Network; Brian Crist, President, WV School-Based Health Assembly and Executive Director, Lincoln Primary Care Association; Teri Harlan, Past President, WV School-based Health Assembly and Director, School Based Health Program, New River Health Association and Rebecca King, Office of Healthy Schools, WV Department of Education.

The Commission **RECOMMENDS** that the legislation being offered by Select Committee D on Health relating to soft drinks in the schools be supported.

UNISYS SYSTEM

Pat Miller, Director of the Office of MMIS Operations and IT Support, Bureau of Medical Services, DHHR, addressed the Commission regarding the UNISYS system by offering statistics on medicaid claims, providers and members. The system has now been approved for CMS certification.

PERSONAL OPTIONS PROGRAM/ AGED AND DISABLED WAIVER PROGRAM

Cindy Beane, Office Director and Administrative Services, Bureau of Medical Services, DHHR discussed personal options program which BMS provides through the ages and disabled waiver program.

Patricia Snyder Nisbet, Program Manager, MR/DD Specialized Care and Community Placement, updated and provided the Commission an overview of the Family Specialized Care Program and the West Virginia Center for Excellence in Disabilities.

John Sassi, Community Services Coordinator, Bureau for Behavioral Health & Health Facilities, DHHR and Frank Kirkland, Director of the Division of Developmental Disabilities, Bureau for Behavioral Health & Health Facilities spoke before the Commission regarding the MR/DD Waiver Program.

The Commission **RECOMMENDS** that the Legislature consider an increase in funding for this program to reduce or eliminate the currently existing waiting list for the MR/DD waiver program.

PHARMACEUTICAL ADVOCATES

Shana Phares, Acting Pharmaceutical Advocate, updated the Commission on the Pharmaceutical advocate and the work of the Pharmaceutical Cost Management Council. .

At this time, the council has made no decision to request the support of the commission on any legislation.

PERINATAL PROJECT

Dr. Clark Hansbarger, Chair, Perinatal Partnership Central Advisory Council, Associate Vice President for Health Sciences, WVU School of Medicine-Charleston Division spoke before the Commission regarding outcomes and recommendations of the perinatal project.

The Commission **RECOMMENDS** that the attached legislation to establish a maternal mortality

review team and to establish a prenatal screening tool to be used to screen all pregnant women be offered by the commission.

LONG TERM HEALTH CARE

Nancy Tyler, Chair of the Vision Shared Long Term Task Force spoke before the Commission concerning long term care in West Virginia and shared what the task force has been doing.

The Commission **RECOMMENDS** that the coordination of long-term care services be a continuing issue of study due to the critical importance of preparing for the significant increase in needed services and that if the Legislature decides to support the legislation offered by the Vision Shared project to create a LTC Commission that regular reporting to the commission be an important aspect of any proposed legislation.

OVERSIGHT AUTHORITY/ PROGRESS REPORTS

The Commission heard updates from Sonia Chambers, Chair of the Health Care Authority, for a progress report of the Pre-Paid Insurance Program.

The Commission also heard from Rebecca King, School Health Services, WV Department of Education, for a progress report on the Diabetes Care Plan Act.

Respectfully submitted:

Senator Roman W. Prezioso, Jr.
Co-Chair

Delegate Don Perdue
Co-Chair

1 H. B. /

2
3 (By Delegates /)

4 [Introduced ; referred to the
5 Committee on .]

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10 A BILL to amend the Code of West Virginia, 1931,, as amended, by
11 adding thereto a new article, designated §48-25A-1, §48-25A-2
12 and §48-25A-3, all relating to the creation of a maternal
13 mortality review team, its members and responsibilities.

14 *Be it enacted by the Legislature of West Virginia:*

15 That The Code of West Virginia, 1931, as amended, be amended
16 by adding thereto a new article, designated §48-25A-1, §48-25A-2
17 and §48-25A-3m all to read as follows:

18 **ARTICLE 25A. MATERNAL MORTALITY REVIEW TEAM.**

19 **§48-25A-1. Legislative Findings.**

20 The Legislature finds that there is a need for a process to study
21 the causes of maternal deaths. It has been found that
22 comprehensive studies indicate that maternal mortalities are more
23 extensive than first appears on death certificates. The
24 Legislature finds that more extensive studies would enable a more

1 fully developed plan to avoid these deaths in the future.

2 **§48-25A-2. Maternal fatality review team.**

3 (a) The Maternal Fatality Review Team is hereby established under
4 the office of the chief medical examiner. The Maternal Fatality
5 Review Team is a multi-disciplinary team created to review the
6 deaths of women who die during pregnancy, at the time of birth or
7 within one year of the birth of a child.

8 (b) The Maternal Fatality Review Team is to consist of the
9 following members, appointed by the governor, to serve three-year
10 terms:

11 (1) The chief medical examiner, who is to serve as the chairperson
12 of the maternal fatality review team and is responsible for calling
13 and coordinating all meetings;

14 (2) the Director of the Office of Maternal Child and Family Health
15 Program in the Bureau of Public Health or a designee;

16 (3) the Director of the Division of Vital Statistics or a designee;

17 (4) representation from each of the three medical schools in the
18 state;

19 (5) the Director of Obstetrics, the Director of the Neonatal
20 Intensive Care Unit and the Director of Pediatrics at each of the
21 tertiary care hospitals in the state;

22 (6) One representative of the State Medical Association;

23 (7) One representative of the State Nurses Association;

24 (8) One representative of the State Osteopathic Association;

25 (9) One representative of private practice physicians;

1 (10) One representative of the West Virginia chapter of the State
2 College of Nurse Midwifery;

3 (11) One representative of the West Virginia chapter of the
4 American College of Obstetrics and Gynecology;

5 (12) One representative of the West Virginia chapter of the
6 American Academy of Pediatrics; and

7 (13) Any additional person that the chair of the team determines
8 is needed on a particular case being considered.

9 (c) Each member shall serve for a term of five years. Of the members
10 of the commission first appointed, one shall be appointed for a
11 term ending the thirtieth day of June two thousand nine, and one
12 each for terms ending one, two, three and four years thereafter.

13 (d) Members of the Maternal Fatality Review Team shall, unless
14 sooner removed, continue to serve until their respective terms
15 expire and until their successors have been appointed and have
16 qualified.

17 (e) An appointment of a physician, whether for a full term or to
18 fill a vacancy, is to be made by the governor from among three
19 nominees selected by the West Virginia state medical association or
20 the organization to be represented on the team. When an
21 appointment is for a full term, the nomination is to be submitted
22 to the governor not later than eight months prior to the date on
23 which the appointment is to become effective. In the case of an
24 appointment to fill a vacancy, the nominations are to be submitted
25 to the governor within thirty days after the request for the

1 nomination has been made by the governor to the chairperson or
2 president of the organization. When an association fails to submit
3 to the governor nominations for the appointment in accordance with
4 the requirements of this section, the governor may make the
5 appointment without nominations.

6 (e) Each member of the Maternal Fatality Review Team shall serve
7 without additional compensation and may not be reimbursed for any
8 expenses incurred in the discharge of his or her duties under the
9 provisions of this article.

10 **§48-25A-3. Responsibilities of the Maternal Mortality Review Team.**

11 (a) The Maternal Fatality Review Team shall, pursuant to the
12 provisions of chapter twenty-nine-a, promulgate rules applicable to
13 the following:

14 (1) The standard procedures for the establishment, formation and
15 conduct of the Maternal Fatality Review Team; and

16 (2) The protocols for the review of maternal mortalities.

17 (b) The Maternal Fatality Review Team shall:

18 (1) Review all deaths of women who die during pregnancy, at the
19 time of birth or within one year of the birth of a child.

20 (2) Establish the trends, patterns and risk factors;

21 (3) Provide statistical analysis regarding the causes of maternal
22 fatalities in West Virginia; and

23 (4) Promote public awareness of the incidence and causes of
24 maternal fatalities, including recommendations for their reduction.

25 (c) The maternal fatality review team shall submit an annual report

1 to the governor and to the Legislature concerning its activities
2 and the incidents of maternal fatalities within the state. The
3 report is due annually on the first day of December. The report is
4 to include statistics setting forth the number of maternal
5 fatalities, identifiable trends in maternal fatalities in the
6 state, including possible causes, if any, and recommendations to
7 reduce the number of preventable maternal fatalities in the state.
8 The report is to also include the number of mothers whose deaths
9 have been determined to have been unexpected or unexplained.

10 ((d) The Maternal Fatality Review Team, in the exercise of its
11 duties as defined in this section, may not:

12 (1) Call witnesses or take testimony from individuals involved in
13 the investigation of a maternal fatality;

14 (2) Contact a family member of the deceased mother, except if a
15 member of the team is involved in the investigation of the death
16 and must contact a family member in the course of performing his or
17 her duties outside of the team; or

18 (3) Enforce any public health standard or criminal law or otherwise
19 participate in any legal proceeding, except if a member of the team
20 is involved in the investigation of the death or resulting
21 prosecution and must participate in a legal proceeding in the
22 course of performing in his or her duties outside of the team.

23 (e) Proceedings, records and opinions of the maternal fatality
24 review team are confidential, in accordance with section one,
25 article seven, chapter forty-nine of this code, and are not subject

1 to discovery, subpoena or introduction into evidence in any civil
2 or criminal proceeding. Nothing in this subsection is to be
3 construed to limit or restrict the right to discover or use in any
4 civil or criminal proceeding anything that is available from
5 another source and entirely independent of the proceedings of the
6 Maternal Fatality Review Team.

7 (f) Members of the Maternal Fatality Review Team may not be
8 questioned in any civil or criminal proceeding regarding
9 information presented in or opinions formed as a result of a
10 meeting of the team. Nothing in this subsection may be construed
11 to prevent a member of the Maternal Mortality Review Team from
12 testifying to information obtained independently of the team or
13 which is public information.

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16 The purpose of this bill is to create a maternal mortality review
17 team and to establish its members and responsibilities.

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19 This article is new: therefore, strike-throughs and underscoring
20 have been omitted.

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Senate Bill No.

(By)

[Introduced , 2007;

referred to the Committee on]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-4D-1, §16-4D-2, §16-4D-3, §16-4D-4 and §16-4D-5 all relating to development of a maternal risk assessment advisory council; providing for legislative findings; setting forth responsibilities of the advisory council; providing for legislative rule making authority within the Bureau for Public Health to develop a uniform maternal risk screening tool and providing for applicability of the screening tool once developed.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-4D-1, §16-4D-2, §16-4D-3, §16-4D-4 and §16-4D-5 all to read as follows:

ARTICLE 4D. UNIFORM MATERNAL SCREENING ACT.

§16-4D-1. Legislative findings.

1 The Legislature finds that there is a need for a more
2 comprehensive and uniform approach to any screening conducted by
3 physicians and midwives to discover at-risk and high-risk
4 pregnancies. A uniform approach would simplify the process,
5 standardize the procedure and better identify those pregnancies
6 that need more in-depth care and monitoring. Additionally, a
7 uniform application would provide better and more measurable data
8 regarding at-risk and high-risk pregnancies. This would allow
9 public health officials to gain a better understanding of those
10 conditions that are most frequently observed and to develop
11 methodology to address those concerns.

12 **§16-4D-2. Establishment of an advisory council on maternal risk**
13 **assessment.**

14 (a) There is hereby created within the Department of Health
15 and Human Resources, Bureau for Public Health, Office of Maternal,
16 Child and Family Health, an the advisory council on maternal risk
17 assessment to provide assistance in the development of a uniform
18 maternal risk screening tool.

19 (b) The Office of Maternal, Child and Family Health is charged
20 with convening the advisory council at least annually and providing
21 administrative and technical assistance to the advisory council as
22 needed. The members of the advisory council shall be appointed by
23 the Commissioner of the Bureau for Public Health.

24 (c) The advisory council shall be comprised of:

- 1 (1) At least one private provider of maternity services;
- 2 (2) At least one public provider of maternity services;
- 3 (3) One representative from each of the state's three medical
- 4 schools;
- 5 (4) The Commissioner of the Bureau for Public Health, or his
- 6 or her designee;
- 7 (5) The Director of the Office of Maternal, Child and Family
- 8 Health, or his or her designee;
- 9 (6) At least one representative of a tertiary care center; and
- 10 (7) At least one certified nurse midwife.

11 **§16-4D-3. Responsibilities of the Advisory Council on Maternal**
12 **Risk Assessment.**

13 This advisory council shall:

- 14 (a) Advise the Bureau for Public Health, Office of Maternal,
- 15 Child and Family Health with respect to the implementation of this
- 16 article;
- 17 (b) Offer expert advice to the Office of Maternal, Child and
- 18 Family Health on the development of a uniform risk screening tool
- 19 and review the tool at least annually to offer suggested updates
- 20 based upon current medical knowledge.;
- 21 (b) Provided comments to the Office of Maternal, Child and
- 22 Family Health on any legislative rules necessary for the
- 23 accomplishment of the any requirements of this article;
- 24 (c) Develop in conjunction with the Office of Maternal, Child

1 and Family Health a statistical matrix to measure incidents of
2 high-risk and at-risk pregnancies for planning purposes by public
3 health officials.

4 **§16-4D-4. Legislative rulemaking authority.**

5 The Department of Health and Human Resources shall propose
6 rules for legislative approval in accordance with the provisions of
7 article three, chapter twenty-nine-a of this code. Such
8 legislative rules shall include a uniform maternal risk screening
9 tool to identify women at risk for a preterm birth or other high-
10 risk condition.

11 **§16-4D-5. Applicability of the screening tool.**

12 Once developed, all health care providers offering maternity
13 services shall be required to utilize the uniform maternal risk
14 screening tool in their examinations of any pregnant woman.
15 Additionally they shall notify the woman of any high-risk condition
16 which they identify along with any necessary referral and report
17 the results in the manner provided in the legislative rule.

NOTE: The purpose of this bill is to establish an advisory council on maternal risk assessment within the Office of Maternal, Child and Family Health and to grant legislative rule making authority to the Bureau for Public Health to develop a uniform maternal risk screening tool to serve as a alert to medical care providers of the need for greater evaluation and assessment of high-risk pregnancies.

This is a new article, therefore, underscoring and strike-throughs have been omitted.

**West Virginia Legislature
Commission on Interstate Cooperation**

**2007-2008 Interims
January 6, 2008**

Senate Members

Senator Evan H. Jenkins, Chair
Senator Dan Foster, Vice Chair
Senator Joseph M. Minard
Senator Ron Stollings
Senator Erik Wells
Senator Donald T. Caruth
Senator Dave Sybolt

President Earl Ray Tomblin,
Ex-Officio, Non-Voting Member

House Members

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Delegate Eustace Frederick, Vice Chair
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Delegate Melvin Kessler
Delegate Doug Reynolds
Delegate Craig P. Blair
Delegate Ron Walters

Speaker Richard Thompson,
Ex-Officio, Non-Voting Member

Final Report of the

Joint Commission on Interstate Cooperation

Your Joint Commission on Interstate Cooperation established pursuant to West Virginia Code §29-1B-1, *et seq.*, has had under consideration the Uniform Prudent Management of Institutional Funds Act and the Uniform Revised Anatomical Gift Act.

On the issue of the Uniform Prudent Management of Institutional Funds Act, your Commission **recommends** the passage of legislation.

On the issue of the Uniform Revised Anatomical Gift Act, your Commission **recommends** the passage of this legislation.

Respectfully submitted,



Senator Evan H. Jenkins,
Co-Chair



Delegate John Pino,
Co-Chair

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H.B./S.B.

(By)

[Introduced; Referred to the Committee on .]

10 A BILL to repeal §44-6A-1, §44-6A-2, §44-6A-3, §44-6A-4, §44-6A-5,
11 §44-6A-6, §44-6A-7 and §44-6A-8, of the Code of West Virginia,
12 1931, as amended; to amend said code by adding thereto a
13 article, designated §44-6A-1, §44-6A-2, §44-6A-3, §44-6A-4,
14 §44-6A-5, §44-6A-6, §44-6A-7, §44-6A-8, §44-6A-9 and §44-6A-
15 10, all relating to funds held for charitable purposes by
16 nonprofit, charitable institutions; repealing the Uniform
17 Management of Institutional Funds Act (UMIFA); creating the
18 Uniform Prudent Management of Institutional Funds Act
19 (UPMIFA); standards of conduct in managing and investing
20 institutional funds; appropriation of institutional funds for
21 expenditures or accumulation; criteria for expenditure or
22 accumulation of institutional funds; delegation to an external
23 agent for the purpose of managing and investing of
24 institutional funds; modifying or releasing donor restrictions
25 on management, investment, or purpose of funds; reviewing

1 compliance; application to existing institutional funds;
2 relation to the federal Electronic Signatures in Global and
3 National Commerce Act; and uniformity in the application and
4 construction of the act.

5 *Be it enacted by the Legislature of West Virginia:*

6 That §44-6A-1, §44-6A-2, §44-6A-3, §44-6A-4, §44-6A-5, §44-6A-
7 6, §44-6A-7 and §44-6A-8 of the Code of West Virginia, 1931, as
8 amended, be repealed; that said code be amended by adding thereto
9 a new article, designated §44-6A-1, §44-6A-2, §44-6A-3, §44-6A-4,
10 §44-6A-5, §44-6A-6, §44-6A-7, §44-6A-8, §44-6A-9 and §44-6A-10, all
11 to read as follows:

12 **ARTICLE 6A. UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT.**

13 **§44-6A-1. Short Title.**

14 This article may be cited as the "Uniform Prudent Management
15 of Institutional Funds Act."

16 **§44-6A-2. Definitions.**

17 In this article:

18 (1) "Charitable purpose" means the relief of poverty, the
19 advancement of education or religion, the promotion of health, the
20 promotion of a governmental purpose, or any other purpose the
21 achievement of which is beneficial to the community.

22 (2) "Endowment fund" means an institutional fund or part
23 thereof that, under the terms of a gift instrument, is not wholly
24 expendable by the institution on a current basis. The term does not

1 include assets that an institution designates as an endowment fund
2 for its own use.

3 (3) "Gift instrument" means a record or records, including an
4 institutional solicitation, under which property is granted to,
5 transferred to, or held by or on behalf of an institution as an
6 institutional fund.

7 (4) "Institution" means:

8 (A) a person, other than an individual, organized and
9 operated exclusively for charitable purposes;

10 (B) a government or governmental subdivision, agency, or
11 instrumentality, to the extent that it holds funds exclusively for
12 a charitable purpose;

13 (C) a trust that had both charitable and noncharitable
14 interests, after all noncharitable interests have terminated; and

15 (D) a community foundation or community trust.

16 (5) "Institutional fund" means a fund held by an institution
17 exclusively for charitable purposes. The term does not include:

18 (A) program-related assets;

19 (B) a fund held for an institution by a trustee that is not
20 an institution, unless the fund is held exclusively for the benefit
21 of either a community foundation or community trust by a bank, a
22 trust company or other similar fiduciary; or

23 (C) a fund in which a beneficiary that is not an institution
24 has an interest, other than an interest that could arise upon
25 violation or failure of the purposes of the fund.

1 (6) "Person" means an individual, corporation, business
2 trust, estate, trust, partnership, limited liability company,
3 association, joint venture, public corporation, government or
4 governmental subdivision, agency, or instrumentality, or any other
5 legal or commercial entity.

6 (7) "Program-related asset" means an asset held by an
7 institution primarily to accomplish a charitable purpose of the
8 institution and not primarily for investment.

9 (8) "Record" means information that is inscribed on a
10 tangible medium or that is stored in an electronic or other medium
11 and is retrievable in perceivable form.

12 (9) "Community foundation" or "community trust" means an
13 institution that has been established to attract contributions for
14 the benefit of a particular community or area whose contributions
15 are often received and maintained in the form of separate trusts or
16 funds which are subject to varying degrees of control by the
17 governing body of the community foundation or community trust and
18 which the governing body in good faith believes meets the
19 requirements of the regulations issued by the Internal Revenue
20 Service, United States Department of Treasury, presently codified
21 as 26 CFR 1.170A-9(e)(10) and (11), to qualify as a "publicly
22 supported" organization and to be treated as a "single entity"
23 rather than as an aggregation of separate funds.

24 **§44-6A-3. Standard of Conduct in Managing and Investing**
25 **Institutional Fund.**

1 (a) Subject to the intent of a donor expressed in a gift
2 instrument, an institution, in managing and investing an
3 institutional fund, shall consider the charitable purposes of the
4 institution and the purposes of the institutional fund.

5 (b) In addition to complying with the duty of loyalty imposed
6 by law other than this article, each person responsible for
7 managing and investing an institutional fund shall manage and
8 invest the fund in good faith and with the care an ordinarily
9 prudent person in a like position would exercise under similar
10 circumstances.

11 (c) In managing and investing an institutional fund, an
12 institution:

13 (1) may incur only costs that are appropriate and reasonable
14 in relation to the assets, the purposes of the institution, and the
15 skills available to the institution; and

16 (2) shall make a reasonable effort to verify facts relevant
17 to the management and investment of the fund.

18 (d) An institution may pool two or more institutional funds
19 for purposes of management and investment.

20 (e) Except as otherwise provided by a gift instrument, the
21 following rules apply:

22 (1) In managing and investing an institutional fund, the
23 following factors, if relevant, must be considered:

24 (A) general economic conditions;

25 (B) the possible effect of inflation or deflation;

1 (C) the expected tax consequences, if any, of investment
2 decisions or strategies;

3 (D) the role that each investment or course of action plays
4 within the overall investment portfolio of the fund;

5 (E) the expected total return from income and the
6 appreciation of investments;

7 (F) other resources of the institution;

8 (G) the needs of the institution and the fund to make
9 distributions and to preserve capital; and

10 (H) an asset's special relationship or special value, if any,
11 to the charitable purposes of the institution.

12 (2) Management and investment decisions about an individual
13 asset must be made not in isolation but rather in the context of
14 the institutional fund's portfolio of investments as a whole and as
15 a part of an overall investment strategy having risk and return
16 objectives reasonably suited to the fund and to the institution.

17 (3) Except as otherwise provided by law other than this
18 article, an institution may invest in any kind of property or type
19 of investment consistent with this section.

20 (4) An institution shall diversify the investments of an
21 institutional fund unless the institution reasonably determines
22 that, because of special circumstances, the purposes of the fund
23 are better served without diversification.

24 (5) Within a reasonable time after receiving property, an
25 institution shall make and carry out decisions concerning the

1 retention or disposition of the property or to rebalance a
2 portfolio, in order to bring the institutional fund into compliance
3 with the purposes, terms, and distribution requirements of the
4 institution as necessary to meet other circumstances of the
5 institution and the requirements of this article.

6 (6) A person that has special skills or expertise, or is
7 selected in reliance upon the person's representation that the
8 person has special skills or expertise, has a duty to use those
9 skills or that expertise in managing and investing institutional
10 funds.

11 **§44-6A-4. Appropriation for Expenditure or Accumulation of**
12 **Endowment Fund; Rules of Construction.**

13 (a) Subject to the intent of a donor expressed in the gift
14 instrument, an institution may appropriate for expenditure or
15 accumulate so much of an endowment fund as the institution
16 determines is prudent for the uses, benefits, purposes, and
17 duration for which the endowment fund is established. This section
18 does not limit the authority of the institution to expend funds as
19 permitted under other law, the terms of the gift instrument, or the
20 charter of the institution. Unless stated otherwise in the gift
21 instrument, the assets in an endowment fund are donor-restricted
22 assets (regardless of their treatment for accounting purposes)
23 until appropriated for expenditure by the institution. In making
24 a determination to appropriate or accumulate, the institution shall
25 act in good faith, with the care that an ordinarily prudent person

1 in a like position would exercise under similar circumstances, and
2 shall consider, if relevant, the following factors:

3 (1) the duration and preservation of the endowment fund;

4 (2) the purposes of the institution and the endowment fund;

5 (3) general economic conditions;

6 (4) the possible effect of inflation or deflation;

7 (5) the expected total return from income and the
8 appreciation of investments;

9 (6) other resources of the institution; and

10 (7) the investment policy of the institution.

11 (b) To limit the authority to appropriate for expenditure or
12 accumulate under subsection (a), a gift instrument must
13 specifically state the limitation.

14 (c) Terms in a gift instrument designating a gift as an
15 endowment, or a direction or authorization in the gift instrument
16 to use only "income", "interest", "dividends", or "rents, issues,
17 or profits", or "to preserve the principal intact", or words of
18 similar import:

19 (1) create an endowment fund of permanent duration unless
20 other language in the gift instrument limits the duration or
21 purpose of the fund; and

22 (2) do not otherwise limit the authority to appropriate for
23 expenditure or accumulate under subsection (a).

24 **§44-6A-5. Delegation of Management and Investment Functions.**

25 (a) Subject to any specific limitation set forth in a gift

1 instrument or in law other than this article, an institution may
2 delegate to an external agent the management and investment of an
3 institutional fund to the extent that an institution could
4 prudently delegate under the circumstances. An institution shall
5 act in good faith, with the care that an ordinarily prudent person
6 in a like position would exercise under similar circumstances, in:

7 (1) selecting an agent;

8 (2) establishing the scope and terms of the delegation,
9 consistent with the purposes of the institution and the
10 institutional fund; and

11 (3) periodically reviewing the agent's actions in order to
12 monitor the agent's performance and compliance with the scope and
13 terms of the delegation.

14 (b) In performing a delegated function, an agent owes a duty
15 to the institution to exercise reasonable care to comply with the
16 scope and terms of the delegation.

17 (c) An institution that complies with subsection (a) is not
18 liable for the decisions or actions of an agent to which the
19 function was delegated.

20 (d) By accepting delegation of a management or investment
21 function from an institution that is subject to the laws of this
22 state, an agent submits to the jurisdiction of the courts of this
23 state in all proceedings arising from or related to the delegation
24 or the performance of the delegated function._

25 (e) An institution may delegate management and investment

1 functions to its committees, officers, or employees as authorized
2 by law of this state other than this article.

3 **§44-6A-6. Release or Modification of Restrictions on Management,**
4 **Investment, or Purpose.**

5 Without limiting the options otherwise available to an
6 institution under applicable law, a restriction on the management,
7 investment, purpose or other provision of a gift to an
8 institutional fund may be released or modified in any one or more
9 of the following ways:

10 (1) If the donor consents in a record, an institution may
11 release or modify, in whole or in part, a restriction contained in
12 a gift instrument on the management, investment, or purpose of an
13 institutional fund. A release or modification may not allow a fund
14 to be used for a purpose other than a charitable purpose of the
15 institution.

16 (2) The court, upon application of an institution, may modify
17 a restriction contained in a gift instrument regarding the
18 management or investment of an institutional fund if the
19 restriction has become impracticable or wasteful, if it impairs the
20 management or investment of the fund, or if, because of
21 circumstances not anticipated by the donor, a modification of a
22 restriction will further the purposes of the fund. The institution
23 shall notify the Attorney General of the application, and the
24 Attorney General must be given an opportunity to be heard. To the
25 extent practicable, any modification must be made in accordance

1 with the donor's probable intention.

2 (3) If a particular charitable purpose or a restriction
3 contained in a gift instrument on the use of an institutional fund
4 becomes unlawful, impracticable, impossible to achieve, or
5 wasteful, the court, upon application of an institution, may modify
6 the purpose of the fund or the restriction on the use of the fund
7 in a manner consistent with the charitable purposes expressed in
8 the gift instrument. The institution shall notify the Attorney
9 General of the application, and the Attorney General must be given
10 an opportunity to be heard.

11 (4) If an institution determines that a restriction contained
12 in a gift instrument on the management, investment, or purpose of
13 an institutional fund is unlawful, impracticable, impossible to
14 achieve, or wasteful, the institution, sixty days after
15 notification to the Attorney General, may release or modify the
16 restriction, in whole or part, if:

17 (A) the institutional fund subject to the restriction has a
18 total value of less than twenty-five thousand dollars;

19 (B) more than twenty years have elapsed since the fund was
20 established; and

21 (C) the institution uses the property in a manner consistent
22 with the charitable purposes expressed in the gift instrument.

23 (5) If the terms of a gift instrument, either specifically or
24 by being subject to the charter of the institution, confer a power
25 on the institution to release or modify a restriction on the

1 management or investment of an institutional fund or the particular
2 charitable purpose or restriction on the use of the institutional
3 fund, the institution shall have the power to so modify or
4 terminate that restriction and the other provisions of this section
5 shall not apply to that release or modification. A release or
6 modification under this subsection may not allow a fund to be used
7 for a purpose other than a charitable purpose of the institution.

8 **§44-6A-7. Reviewing Compliance.**

9 Compliance with this article is determined in light of the
10 facts and circumstances existing at the time a decision is made or
11 action is taken, and not by hindsight.

12 **§44-6A-8. Application to Existing Institutional Funds.**

13 This article applies to institutional funds existing on or
14 established after the effective date of this article. As applied
15 to institutional funds existing on the effective date of this
16 article, this article governs only decisions made or actions taken
17 on or after that date.

18 **§44-6A-9. Relation to Electronic Signatures in Global and National
19 Commerce Act.**

20 This article modifies, limits, and supersedes the Electronic
21 Signatures in Global and National Commerce Act, 15 U.S.C. Section
22 7001 et seq., but does not modify, limit, or supersede Section 101
23 of that act, 15 U.S.C. Section 7001(a), or authorize electronic
24 delivery of any of the notices described in Section 103 of that

1 act, 15 U.S.C. Section 7003(b).

2 **§44-6A-10. Uniformity of Application and Construction.**

3 In applying and construing this uniform act, consideration
4 must be given to the need to promote uniformity of the law with
5 respect to its subject matter among states that enact it.

Note: This bill repeals the Uniform Management of Institutional Funds Act (UMIFA) and replaces it with the Uniform Prudent Management of Institutional Funds Act (UPMIFA). UPMIFA is an update of the UMIFA which dates back to 1972. UPMIFA applies to funds held for charitable purposes by nonprofit, charitable institutions. The three principal issues addressed are scope of coverage, investment obligations and expenditure of funds.

This article is new; therefore, underscoring and strike-throughs have been omitted.

H.B./S.B.

(By Senators/Delegates)

[Introduced .]

A BILL to amend and reenact §16-19-1, §16-19-2, §16-19-3, §16-19-4, §16-19-5, §16-19-6, §16-19-7, §16-19-8, §16-19-9, §16-19-10, §16-19-11, §16-19-12, §16-19-13 and §16-19-14 of the Code of West Virginia, 1931, as amended, and to further amend said article by adding thereto nine new sections, designated §16-19-15, §16-19-16, §16-19-17, §16-19-18, §16-19-19, §16-19-20, §16-19-21, §16-19-22 and §16-19-23, all establishing the Revised Anatomical Gift Act; providing for a short title; establishing applicability; defining terms; identifying who may make an anatomical gift before the donor's death, establishing the manner of making an anatomical gift before the donor's death; providing for amendment or revocation of an anatomical gift before the donor's death; clarifying donor right to refuse to make an anatomical gift and the effect of such refusal; specifying the preclusive effect of an anatomical gift, amendment or revocation; identifying who may make an anatomical gift of a

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Revised Anatomical Gift Act
January 8, 2008

1 body or part after death of the donor; establishing the manner of making, amending
2 or revoking an anatomical gift after the decedent's death; identifying persons and
3 institutions to whom anatomical gifts may be made; establishing presumptions for
4 distribution of body and parts if donor does not specify to whom gift passes;
5 requiring first responders, hospital staff and medical examiners to conduct a
6 reasonable search of the body of a decedent for evidence of an anatomical gift or
7 refusal to make a gift; specifying that delivery of document of gift during donor's
8 lifetime not required; identifying who may examine a document of gift; establishing
9 rights and duties of procurement organization in recovering a body or part the
10 subject of an anatomical gift; requiring hospitals to cooperate with procurement
11 organizations for purposes of recovering anatomical gifts; creating the offense of
12 knowingly buying or selling a body part for transplantation or therapy; creating the
13 offense of intentionally falsifying, concealing, defacing or obliterating a document of
14 gift, amendment or revocation; establishing immunity from civil liability for good faith
15 efforts to comply with article; specifying which law governs documents of gift;
16 establishing donor registry through Division of Motor Vehicles and standards of
17 operation; specifying effect of anatomical gift on advance health care directives;
18 requiring cooperation between medical examiner and procurement organization;
19 establishing standards and conditions for medical examiner's release of body or part
20 subject to anatomical gift to procurement organizations; requiring authorization of
21 prosecuting attorney for release of body or recovery of part where death is subject

1 to criminal investigation; and establishing relation to Electronic Signatures in Global
2 and National Commerce Act.

3 *Be it enacted by the Legislature of West Virginia:*

4 That §16-19-1, §16-19-2, §16-19-3, §16-19-4, §16-19-5, §16-19-6, §16-19-7,
5 §16-19-8, §16-19-9, §16-19-10, §16-19-11, §16-19-12, §16-19-13 and §16-19-14 of the
6 code of West Virginia, 1931, as amended, be amended and reenacted and that said article
7 be further amended by addition thereto nine new sections, designated §16-19-15,
8 §16-19-16, §16-19-17, §16-19-18, §16-19-19, §16-19-20, §16-19-21, §16-19-22 and
9 §16-19-23, all to read as follows:

10 **CHAPTER 16. PUBLIC HEALTH.**

11 **ARTICLE 19. ANATOMICAL GIFT ACT**

12 **§ 16-19-1. Short title.**

13 This article may be cited as the "Revised Anatomical Gift Act."

14 **§ 16-19-2. Applicability.**

15 This article applies to an anatomical gift or to an amendment to, revocation of, or
16 refusal to make an anatomical gift, whenever made.

17 **§ 16-19-3. Definitions.**

18 As used in this article:

19 (1) "Adult" means an individual who is at least eighteen (18) years of age.

20 (2) "Agent" means an individual:

21 (A) Authorized by a medical power of attorney to make health care decisions on

1 behalf of a prospective donor; or

2 (B) Expressly authorized by any other record signed by the donor to make an
3 anatomical gift on his or her behalf.

4 (3) "Anatomical gift" means a donation of all or part of a human body, to take effect
5 after the donor's death, for the purpose of transplantation, therapy, research, or education.

6 (4) "Authorized person" means a person other than the donor who is authorized to
7 make an anatomical gift of the donor's body or part by section four or section nine of this
8 article.

9 (5) "Certification of death" means a written pronouncement of death by an attending
10 physician. Certification is required before an attending physician can allow removal of any
11 part from the decedent's body for transplant purposes.

12 (6) "Decedent" means a deceased individual whose body is or may be the source
13 of an anatomical gift. The term "decedent" includes a stillborn infant and, subject to
14 restrictions imposed by law other than this article, a fetus.

15 (7) "Disinterested witness" means a witness other than the spouse, child, parent,
16 sibling, grandchild, grandparent or guardian of or another adult who exhibited special care
17 and concern for an individual who has made, amended, revoked, or refused to make an
18 anatomical gift. The term "disinterested witness" does not include a person to whom an
19 anatomical gift may pass pursuant to under section eleven of this article.

20 (8) "Document of gift" means a donor card or other record used to make an
21 anatomical gift. The term includes a statement or symbol on a driver's license, identification

1 card or donor registry.

2 (9) "Donor" means an individual whose body or part is the subject of an anatomical
3 gift.

4 (10) "Donor registry" means a database that contains records of anatomical gifts and
5 amendments to or revocations of anatomical gifts.

6 (11) "Driver's license" means a license or permit issued by the Division of Motor
7 Vehicles to operate a vehicle.

8 (12) "Eye bank" means a person licensed, accredited, or regulated under federal or
9 state law to engage in the recovery, screening, testing, processing, storage, or distribution
10 of human eyes or portions of human eyes.

11 (13) "Guardian" means a person appointed by a court to make decisions regarding
12 the support, care, education, health, or welfare of an individual. The term "guardian" does
13 not include a guardian ad litem.

14 (14) "Hospital" means a facility licensed as a hospital under the law of any state or
15 a facility operated as a hospital by the United States, a state, or a subdivision of a state.

16 (15) "Identification card" means an identification card issued by the Division of Motor
17 Vehicles pursuant to section one, article two, chapter seventeen-b of this code.

18 (16) "Know" means to have actual knowledge. It does not include constructive notice
19 and other forms of imputed knowledge.

20 (17) "Medical examiner" means an individual appointed pursuant to article twelve,
21 chapter sixty-one of this code to perform death investigations and to establish the cause

1 and manner of death. The term "medical examiner" includes any person designated by the
2 medical examiner to perform any duties required by this article.

3 (18) "Minor" means an individual who is under eighteen (18) years of age.

4 (19) "Organ procurement organization" means a nonprofit entity designated by the
5 Secretary of the United States Department of Health and Human Services as an organ
6 procurement organization pursuant to 42 U.S.C. §273(b).

7 (20) "Parent" means another person's natural or adoptive mother or father whose
8 parental rights have not been terminated by a court of law.

9 (21) "Part" means an organ, an eye, or tissue of a human being. The term does not
10 include the whole body.

11 (22) "Person" means an individual, corporation, business trust, estate, trust,
12 partnership, limited liability company, association, joint venture, public corporation,
13 government or governmental subdivision, agency, or instrumentality, or any other legal or
14 commercial entity.

15 (23) "Physician" means an individual authorized to practice medicine or osteopathy
16 under the law of any state.

17 (24) "Physician assistant" has the meaning provided in section sixteen, article three,
18 chapter thirty of this code.

19 (25) "Procurement organization" means an eye bank, organ procurement
20 organization or tissue bank.

21 (26) "Prospective donor" means an individual who is dead or near death and has

1 been determined by a procurement organization to have a part that could be medically
2 suitable for transplantation, therapy, research, or education. The term "prospective donor"
3 does not include an individual who has made a refusal.

4 (27) "Reasonably available" means able to be contacted by a procurement
5 organization without undue effort and willing and able to act in a timely manner consistent
6 with existing medical criteria necessary for the making of an anatomical gift.

7 (28) "Recipient" means an individual into whose body a decedent's part has been
8 or is intended to be transplanted.

9 (29) "Record" means information that is inscribed on a tangible medium or that is
10 stored in an electronic or other medium and is retrievable in perceivable form.

11 (30) "Refusal" means a record created under section seven of this article that
12 expressly states an individual's intent to bar other persons from making an anatomical gift
13 of his or her body or part.

14 (31) "Sign" means to execute or adopt a tangible symbol or attach to or logically
15 associate with the record an electronic symbol, sound, or process, with the present intent
16 to authenticate or adopt a record.

17 (32) "State" means a state of the United States, the District of Columbia, Puerto
18 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
19 jurisdiction of the United States.

20 (33) "Surrogate" means an individual eighteen years of age or older who is
21 reasonably available, is willing to make health care decisions on behalf of an incapacitated

1 person, possesses the capacity to make health care decisions and is identified or selected
2 by the attending physician or advanced nurse practitioner in accordance with the provisions
3 of article thirty of this chapter as the person who is to make those decisions in accordance
4 with the provisions of this article.

5 (34) "Technician" means an individual qualified to remove or process parts by an
6 organization that is licensed, accredited, or regulated under federal or state law. The term
7 "technician" includes an enucleator, *i.e.*, an individual who removes or processes eyes or
8 parts of eyes.

9 (35) "Tissue" means a portion of the human body other than an organ or an eye. The
10 term "tissue" does not include blood unless the blood is donated for the purpose of
11 research or education.

12 (36) "Tissue bank" means a person that is licensed, accredited, or regulated under
13 federal or state law to engage in the recovery, screening, testing, processing, storage, or
14 distribution of tissue.

15 (37) "Transplant hospital" means a hospital that furnishes organ transplants and
16 other medical and surgical specialty services required for the care of transplant patients.

17 **§ 60-19-4. Who may make anatomical gift before donor's death.**

18 Subject to section eight of this article, an anatomical gift may be made during the life
19 of the donor for the purpose of transplantation, therapy, research, or education by:

20 (1) The donor, if the donor is an adult;

21 (2) The donor, if the donor is a minor and is emancipated or sixteen (16) years of

1 age or older;

2 (3) An agent of the donor, unless the medical power of attorney or other record
3 prohibits the agent from making an anatomical gift;

4 (4) A parent of the donor, if the donor is an unemancipated minor; or

5 (5) The donor's guardian.

6 **§ 60-19-5. Manner of making anatomical gift before donor's death.**

7 (a) A donor may make an anatomical gift:

8 (1) By authorizing a statement or symbol to be imprinted on his or her driver's
9 license or identification card indicating that he or she has made an anatomical gift;

10 (2) In a will;

11 (3) During a terminal illness or injury, by any form of communication addressed to
12 at least two adults, at least one of whom is a disinterested witness; or

13 (4) As provided in subsection (b) of this section.

14 (b) (1) A donor or a person authorized by section four of this article may make a gift
15 by:

16 (A) A donor card or other record signed by the donor or the authorized person; or

17 (B) Authorizing a statement or symbol indicating that the donor has made an
18 anatomical gift to be included on a donor registry.

19 (2) If the donor or the authorized person is physically unable to sign a record,
20 another individual may sign at the direction of the donor or the authorized person if the
21 document of gift:

1 (A) Is witnessed and signed by at least two adults, at least one of whom is a
2 disinterested witness; and

3 (B) Contains a statement that it has been signed and witnessed as required by
4 paragraph (A) of this subdivision.

5 (c) Revocation, suspension, expiration, or cancellation of a driver's license or
6 identification card upon which an anatomical gift is indicated does not invalidate the gift.

7 (d) An anatomical gift made by will takes effect upon the donor's death regardless
8 of whether the will is probated. Invalidation of the will after the donor's death does not
9 invalidate the gift.

10 **§ 60-19-6. Amending or revoking anatomical gift before donor's death.**

11 (a) Subject to section eight of this article, a donor or a person authorized pursuant
12 to section four of this article may amend or revoke an anatomical gift by:

13 (1) (A) A record signed and dated by the donor or the authorized person.

14 (B) If the donor or the authorized person is physically unable to sign a record,
15 another individual may sign at the direction of the donor or the authorized person if the
16 document of gift:

17 (i) Is witnessed and signed by at least two adults, at least one of whom is a
18 disinterested witness; and

19 (ii) Contains a statement that it has been signed and witnessed as required by
20 subparagraph (i) of this paragraph; or

21 (2) A later-executed document of gift that amends or revokes a previous anatomical

1 gift, or portion of an anatomical gift, either expressly or by inconsistency.

2 (b) Subject to section eight of this article, a donor or a person authorized by section
3 four of this article may revoke an anatomical gift by destroying or cancelling the document
4 of gift, or the relevant portion of the document of gift, with the intent to revoke the gift.

5 (c) During a terminal illness or injury, a donor may amend or revoke an anatomical
6 gift that was not made in a will by any form of communication addressed to at least two
7 adults, at least one of whom is a disinterested witness.

8 (d) A donor who makes an anatomical gift in a will may amend or revoke the gift in
9 the manner provided for amendment or revocation of wills or as provided in subsection (a)
10 of this section.

11 **§ 60-19-7. Refusal to make anatomical gift; effect of refusal.**

12 (a) An individual may express his or her refusal to make an anatomical gift of his or
13 her body or body parts by:

14 (1) A record signed by the individual. If the individual is physically unable to sign,
15 another person acting at the direction of the individual may sign if the refusal:

16 (A) Is witnessed and signed by at least two adults, at least one of whom is a
17 disinterested witness, at the request of the individual; and

18 (B) Contains a statement that it has been signed and witnessed as provided in
19 paragraph (A) of this subdivision;

20 (2) The individual's will, regardless of whether the will is admitted to probate or
21 invalidated after the individual's death; or

1 (3) During a terminal illness or injury of the individual, any form of communication
2 made by the individual addressed to at least two adults, at least one of whom is a
3 disinterested witness.

4 (b) An individual who has made a refusal may amend or revoke the refusal:

5 (1) In the manner provided in subsection (a) of this section for making a refusal;

6 (2) By subsequently making an anatomical gift pursuant to section five of this article
7 that is inconsistent with the refusal; or

8 (3) By destroying or canceling the record evidencing the refusal, or the portion of the
9 record used to make the refusal, with the intent to revoke the refusal.

10 (c) Except as otherwise provided in section eight of this article, in the absence of an
11 express, contrary indication set forth in the refusal, an individual's unrevoked refusal to
12 make an anatomical gift of his or her body or part bars all other persons from making an
13 anatomical gift of the individual's body or part.

14 **§ 60-19-8. Preclusive effect of anatomical gift, amendment, or revocation.**

15 (a) Except as otherwise provided in subsections (g) and (f) of this section, in the
16 absence of an express, contrary indication by the donor who has made or amended an
17 anatomical gift, a person other than the donor is barred from making, amending, or
18 revoking an anatomical gift of the donor's body or part

19 (b) A donor's revocation of an anatomical gift is not a refusal and bars another
20 authorized person from making an anatomical gift of the donor's body or part pursuant to
21 section five or section ten of this article.

1 (c) If an authorized person makes an unrevoked anatomical gift or an amendment
2 to an anatomical gift of the donor's body or part, no other person may make, amend, or
3 revoke the anatomical gift after the donor's death.

4 (d) A revocation of an anatomical gift under section six of this article by an
5 authorized person does not bar another person from making an anatomical gift of the body
6 or part under section five or section ten of this article.

7 (e) In the absence of an express, contrary indication by the donor or the person
8 authorized to make an anatomical gift under section four of this article, an anatomical gift
9 of a part is neither a refusal to give another part nor a limitation on the making of an
10 anatomical gift of another part at a later time by the donor or another person.

11 (f) In the absence of an express, contrary indication by the donor or other person
12 authorized to make an anatomical gift under section four of this article, an anatomical gift
13 of a part for one purpose is not a limitation on the making of an anatomical gift of the part
14 for any of the other purposes by the donor or any other person under section five or section
15 ten of this article.

16 (g) If a donor who is an unemancipated minor dies, a parent of the donor who is
17 reasonably available may revoke or amend an anatomical gift of the donor's body or part.

18 (h) If an unemancipated minor who signed a refusal dies, a parent of the minor who
19 is reasonably available may revoke the minor's refusal.

20 **§ 60-19-9. Who may make anatomical gift of decedent's body or part.**

21 (a) Unless barred by section seven or section eight of this article, an anatomical gift

1 of a decedent's body or part for purpose of transplantation, therapy, research, or education
2 may be made by any member of the following classes of persons who is reasonably
3 available, in the order of priority listed:

4 (1) A person holding a medical power of attorney or another agent of the decedent
5 at the time of death who could have made an anatomical gift under section four of this
6 article immediately before the decedent's death;

7 (2) The spouse of the decedent, unless in the six (6) months prior to the decedent's
8 death the spouse has lived separate and apart from the decedent in a separate place of
9 abode without cohabitation;

10 (3) Adult children of the decedent;

11 (4) The person acting as the guardian of the decedent at the time of death;

12 (5) An appointed health care surrogate;

13 (6) Parents of the decedent;

14 (7) Adult siblings of the decedent;

15 (8) Adult grandchildren of the decedent;

16 (9) Grandparents of the decedent; or

17 (10) An adult who exhibited special care and concern for the decedent.

18 (b) If there is more than one member of a class entitled to make an anatomical gift,
19 any member of the class may make the anatomical gift unless he or she or a person to
20 whom the anatomical gift may pass pursuant to section eleven of this section knows of an
21 objection by another member of the class. If an objection is known, the majority of the

1 members of the same class must be opposed to the donation in order for the donation to
2 be revoked. In the event of a tie vote, the attending physician or advanced nurse
3 practitioner shall appoint a health care surrogate to decide whether to make an anatomical
4 gift of the decedent's body or part for the purpose of transplantation, therapy, research or
5 education.

6 (c) A person may not make an anatomical gift if, at the time of the decedent's death,
7 a person in a prior class is reasonably available to make or to object to the making of an
8 anatomical gift.

9 **§ 60-19-10. Manner of making, amending, or revoking anatomical gift of decedent's**
10 **body or part.**

11 (a) A person authorized to make an anatomical gift under section nine of this article
12 may do so by:

13 (1) A document of gift signed by the authorized person; or

14 (2) An oral communication by the authorized person that is electronically recorded
15 or is contemporaneously reduced to a record and signed by the person receiving the oral
16 communication.

17 (b) An anatomical gift by a person authorized by section nine of this article may be
18 amended or revoked orally or in writing by any member of a prior class who is reasonably
19 available. If more than one member of the prior class is reasonably available, the gift made
20 by the authorized person may be revoked only if a majority of the members of the same
21 class are opposed to the anatomical gift. In the event of a tie vote, a health care surrogate

1 shall be appointed to decide whether to honor, amend or revoke the anatomical gift of the
2 decedent's body or part.

3 (c) A revocation under subsection (b) of this section is effective only if, before an
4 incision has been made to remove a part from the donor's body or before invasive
5 procedures have begun to prepare the recipient, the procurement organization, transplant
6 hospital, or physician or technician knows of the revocation.

7 **§ 60-19-11. Persons who may receive anatomical gift; purpose of anatomical gift.**

8 (a) An anatomical gift may be made to the following persons named in the document
9 of gift:

10 (1) A hospital; accredited medical school, dental school, college, or university; organ
11 procurement organization; or other appropriate person, for research or education;

12 (2) An individual designated by the person making the anatomical gift as the
13 recipient of the part;

14 (3) An eye bank or tissue bank.

15 (b) If an anatomical gift is made to an individual under subdivision (2), subsection
16 (a) of this section and the donated body part cannot be transplanted into the named
17 individual, in the absence of an express, contrary indication by the person making the
18 anatomical gift, the part passes pursuant to subsection (g) of this section;

19 (c) If a document of gift makes an anatomical gift and identifies the purpose for
20 which the gift may be used but does not designate a person described in subsection (a) of
21 this section to receive the gift, the following rules apply:

1 (1) If the part is an eye and the gift is for the purpose of transplantation or therapy,
2 the gift passes to the appropriate eye bank.

3 (2) If the part is tissue and the gift is for the purpose of transplantation or therapy,
4 the gift passes to the appropriate tissue bank.

5 (3) If the part is an organ and the gift is for the purpose of transplantation or therapy,
6 the gift passes to the appropriate organ procurement organization as custodian of the
7 organ.

8 (4) If the part is an organ, an eye, or tissue and the gift is for the purpose of research
9 or education, the gift passes to the appropriate procurement organization.

10 (d) If the document of gift states more than one purpose of an anatomical gift but
11 does not specify the priority, the gift must be used for transplantation or therapy, if suitable.
12 If the gift cannot be used for transplantation or therapy, the gift may be used for research
13 or education.

14 (e) If the document of gift does not identify the purpose of the anatomical gift, the gift
15 may be used only for transplantation or therapy and passes in accordance with subsection
16 (g) of this section.

17 (f) If a document of gift specifies only a general intent to make an anatomical gift by
18 using words such as "donor", "organ donor", or "body donor", or by a symbol or statement
19 of similar import, the gift may be used for transplantation, research or therapy and passes
20 in accordance with subsection (g) of this section.

21 (g) For purposes of subsections (b), (e), and (f) of this section, and anatomical gift

1 passes in the following manner:

2 (1) If the part is an eye, the gift passes to the appropriate eye bank.

3 (2) If the part is tissue, the gift passes to the appropriate tissue bank.

4 (3) If the part is an organ, the gift passes to the appropriate organ procurement
5 organization as custodian of the organ.

6 (h) An anatomical gift of an organ for transplantation or therapy, other than a gift to
7 an individual described in subdivision (2), subsection (a) of this section, passes to an organ
8 procurement organization as custodian of the organ.

9 (i) If an anatomical gift does not pass pursuant to subsections (a) through (h) of this
10 section or the body or part is not used for transplantation, therapy, research, or education,
11 custody of the body or part passes to the person under obligation to dispose of the body
12 or part.

13 (j) A person may not accept an anatomical gift if he or she knows that:

14 (1) The gift was not effectively made pursuant to this article; or

15 (2) The decedent made a refusal under section seven of this article that was not
16 revoked.

17 (k) For purposes of subsection (j), if a person knows that an anatomical gift was
18 made in a document of gift, the person is presumed to know of any amendment or
19 revocation of the gift or any refusal to make an anatomical gift in the same document of gift.

20 (l) Except as provided in subdivision (2), subsection (a) of this section, nothing in this
21 article affects the allocation of organs for transplantation or therapy.

1 **§ 60-19-12. Search and notification.**

2 (a) A law enforcement officer, firefighter, paramedic, or other emergency rescuer
3 finding an individual he or she reasonably believes is dead or near death shall make a
4 reasonable search of the individual for a document of gift or other information identifying
5 the individual as a donor or as having made a refusal. If a document of gift or a refusal is
6 located by the search and the individual is taken to a hospital, the person who conducted
7 the search shall send the document of gift or refusal to the hospital.

8 (b) If no other source of the information is immediately available, hospital staff shall
9 search an individual reasonably believed to be dead or near death as soon as practical
10 after the arrival at the hospital for a document of gift or other information identifying the
11 individual as a donor or as having made a refusal.

12 (c) A medical examiner shall conduct a reasonable search of an individual whose
13 body is placed in his or her custody for a document of gift or other information identifying
14 the individual as a donor or as having made a refusal.

15 (d) A person is not subject to criminal or civil liability for failing to discharge the duties
16 imposed by this section but may be subject to administrative sanctions.

17 **§ 60-19-13. Delivery of document of gift not required; right to examine.**

18 (a) A document of gift need not be delivered during the donor's lifetime to be
19 effective.

20 (b) Upon or after an individual's death, a person in possession of a document of gift
21 or a refusal with respect to the decedent shall allow (1) a person authorized to make or

1 object to the making of an anatomical gift with respect to the decedent or (2) a person to
2 whom the gift could pass under section eleven of this article to examine and copy the
3 document of gift or refusal.

4 **§ 60-19-14. Rights and duties of procurement organization and others.**

5 (a) When a hospital refers an individual at or near death to a procurement
6 organization, the organization shall make a reasonable search of the records of the Division
7 of Motor Vehicles and any donor registry it knows of for the geographical area in which the
8 individual resides to ascertain whether the individual has made an anatomical gift.

9 (b) The Division of Motor Vehicles shall allow a procurement organization
10 reasonable access to information in the Division's records to ascertain whether an
11 individual at or near death is a donor. The Commissioner of the Division of Motor Vehicles
12 shall propose legislative rules for promulgation pursuant to article three, chapter twenty-
13 nine-a of this code to facilitate procurement agencies' access to records pursuant to this
14 subsection.

15 (c) When a hospital refers an individual at or near death to a procurement
16 organization, the organization may conduct any reasonable examination necessary to
17 ensure the medical suitability of a part that is or could be the subject of an anatomical gift
18 for transplantation, therapy, research, or education from a donor or a prospective donor.
19 During the examination period, measures necessary to ensure the medical suitability of the
20 part may not be withdrawn unless the hospital or procurement organization knows that the
21 prospective donor expressed a contrary intent.

1 (d) Unless prohibited by law, at any time after a donor's death, a person to whom
2 a decedent's part passes under section eleven of this article may conduct any reasonable
3 examination necessary to ensure the medical suitability of the body or part for its intended
4 purpose.

5 (e) Unless prohibited by law, an examination under subsection (c) or (d) of this
6 section may include an examination of all medical and dental records of the donor or
7 prospective donor.

8 (f) Upon the death of a minor who was a donor or had signed a refusal, unless a
9 procurement organization knows the minor is emancipated, the procurement organization
10 shall conduct a reasonable search for the parents of the minor and provide the parents with
11 an opportunity to revoke or amend the anatomical gift or revoke the refusal.

12 (g) Upon referral by a hospital under subsection (a) of this section, a procurement
13 organization shall make a reasonable search for any person listed in section nine of this
14 article having priority to make an anatomical gift on behalf of a prospective donor. If a
15 procurement organization receives information that an anatomical gift to any other person
16 was made, amended, or revoked, it shall promptly advise the other person of all relevant
17 information.

18 (h) Except as provided in and section twenty-two of this article, the rights of the
19 person to whom a part passes under section eleven of this article are superior to the rights
20 of all others. A person may accept or reject an anatomical gift in whole or in part. Subject
21 to the terms of the document of gift and this article, a person that accepts an anatomical

1 gift of an entire body may allow embalming, burial or cremation, and use of remains in a
2 funeral service. If the gift is of a part, the person to whom the part passes under section
3 eleven of this article shall, upon the death of the donor and before embalming, burial, or
4 cremation, cause the part to be removed without unnecessary mutilation.

5 (i) Neither the physician or the physician assistant who attends the decedent at
6 death nor the physician or the physician assistant who determines the time of death may
7 participate in the procedures for removing or transplanting a part from the decedent.

8 (j) A physician or technician may remove a donated part from the body of a donor
9 that the physician or technician is qualified to remove.

10 **§ 60-19-15. Coordination of procurement and use.**

11 Each hospital licensed in this state shall enter into agreements or affiliations with
12 procurement organizations for coordinating procurement and use of anatomical gifts.

13 **§ 60-19-16. Prohibited acts; sale or purchase of parts prohibited.**

14 (a) Except as provided in subsection (b) of this section, a person who knowingly
15 buys or sells, for valuable consideration, a part for transplantation or therapy is guilty of a
16 felony and upon conviction is subject to a fine of not more than fifty thousand dollars
17 (\$50,000) or imprisonment for a term of not more than five years, or both fine and
18 imprisonment.

19 (b) A person who, in order to obtain a financial gain, intentionally falsifies, forges,
20 conceals, defaces, or obliterates a document of gift, an amendment or revocation of a
21 document of gift or a refusal is guilty of a felony and upon conviction is subject to a fine of

1 not more than \$50,000 or imprisonment not exceeding five years.

2 (c) Nothing in this section prohibits a person from charging reasonable amounts for
3 the costs of removing, processing, preserving, quality control, storing, transporting,
4 implanting, or disposing of a part.

5 **§60-19-17. Immunity.**

6 (a) A person, including a medical examiner, who acts in accordance with this article
7 or with the applicable anatomical gift law of another state, or attempts in good faith to do
8 so, is not liable for the act in a civil action, criminal prosecution, or administrative
9 proceeding.

10 (b) Neither the person making an anatomical gift nor the donor's estate is liable for
11 any injury or damage that results from the making or use of the gift.

12 (c) In determining whether an anatomical gift has been made, amended, or revoked
13 under this article, a person to whom a gift passes may rely upon an individual's
14 representations that he or she is the donor or a person authorized to make a gift of the
15 body or part pursuant to subsection (a), section nine of this article unless the person to
16 whom the gift may pass knows that the representation is untrue.

17 **§60-19-18. Law governing validity; choice of law as to execution of document of gift;**
18 **presumption of validity.**

19 (a) A document of gift is valid if executed in accordance with:

20 (1) This article;

21 (2) The laws of the state or country where it was executed; or

1 (3) The laws of the state or country where the person making the anatomical gift was
2 domiciled, has a place of residence, or was a national at the time the document of gift was
3 executed.

4 (b) If a document of gift is valid under this section, the law of this state governs the
5 interpretation of the document of gift.

6 (c) A person may presume that a document of gift or amendment of an anatomical
7 gift is valid unless that person knows that it was not validly executed or was revoked.

8 **§ 60-19-19. Donor registry.**

9 (a) The Division of Motor Vehicles may establish or contract for the establishment
10 of a donor registry.

11 (b) The Division of Motor Vehicles shall cooperate with a person that administers any
12 donor registry established or contracted for pursuant to this section or recognized for the
13 purpose of transferring to the donor registry all relevant information regarding a donor's
14 making, amendment to, or revocation of an anatomical gift.

15 (c) A donor registry must:

16 (1) Allow a donor or person authorized under section four of this article to include
17 on the donor registry a statement or symbol that the donor has made, amended, or revoked
18 an anatomical gift;

19 (2) Be accessible to a procurement organization to allow it to obtain relevant
20 information on the donor registry to determine, at or near death of the donor or a
21 prospective donor, whether the donor or prospective donor has made, amended, or

1 revoked an anatomical gift; and

2 (3) Be accessible for purposes of paragraphs (1) and (2) of this subsection twenty-
3 four hours a day, seven days a week.

4 (d) Personally identifiable information on a donor registry about a donor or
5 prospective donor may not be used or disclosed without the express consent of the donor,
6 prospective donor, or person that made the anatomical gift for any purpose other than to
7 determine, at or near death of the donor or prospective donor, whether the donor or
8 prospective donor has made, amended, or revoked an anatomical gift.

9 (e) This section does not prohibit any person from creating or maintaining a donor
10 registry that is not established by or under contract with the state. Any private donor
11 registry must comply with subsections (c) and (d) of this section.

12 **§ 60-19-20. Effect of anatomical gift on advance health-care directive.**

13 (a) In this section:

14 (1) "Advance health-care directive" means a medical power of attorney or a record
15 signed or authorized by a prospective donor containing the prospective donor's direction
16 concerning a health-care decision for the prospective donor.

17 (2) "Declaration" means a record signed by a prospective donor specifying the
18 circumstances under which a life support system may be withheld or withdrawn from the
19 prospective donor.

20 (3) "Health-care decision" means any decision regarding the health care of the
21 prospective donor.

1 (b) If a prospective donor has a declaration or advance health care directive, the
2 terms of which are in conflict with the express or implied terms of a potential anatomical gift
3 with regard to administration of measures necessary to ensure the medical suitability of a
4 part for transplantation or therapy, the attending physician and the prospective donor shall
5 confer to resolve the conflict.

6 (1) If the prospective donor is incapable of resolving the conflict, an agent acting
7 under the prospective donor's declaration or directive, or, if none or the agent is not
8 reasonably available, another person authorized by law other than this article to make
9 health care decisions on behalf of the prospective donor, shall act for the donor to resolve
10 the conflict as quickly as possible.

11 (2) A procurement organization and any person authorized to make an anatomical
12 gift on behalf of a prospective donor pursuant to section nine of this article shall provide any
13 information relevant to the resolution of the conflict

14 (3) Pending resolution of the conflict, measures necessary to ensure the medical
15 suitability of a part may not be withheld or withdrawn from the prospective donor unless
16 doing so is contraindicated by appropriate end-of-life care.

17 **§ 60-19-21. Cooperation between medical examiner and procurement organization.**

18 (a) A medical examiner shall cooperate with a procurement organization to maximize
19 the opportunity to recover anatomical gifts for the purpose of transplantation, therapy,
20 research, or education.

21 (b) If a medical examiner receives notice from a procurement organization that an

1 anatomical gift was or might have been made with respect to a decedent whose body is in
2 the custody of the medical examiner, the medical examiner shall conduct a post-mortem
3 examination in a manner and within a period compatible with its preservation for the
4 purposes of the gift, unless the medical examiner denies recovery in accordance with
5 section twenty-two of this article.

6 (c) While the decedent's body is in the custody of a medical examiner, a part may
7 not be removed for transplantation, therapy, research, or education or the body delivered
8 for research and education unless the part or the body is the subject of an anatomical gift.
9 This subsection does not preclude a medical examiner from performing a medicolegal
10 investigation upon the decedent's body or parts while in his or her custody.

11 **§ 60-19-22. Facilitation of anatomical gift from decedent whose body is under**
12 **jurisdiction of medical examiner.**

13 (a) Except as provided in subsection (e) of this section, the medical examiner shall,
14 upon request of a procurement organization, release to the procurement organization the
15 name, contact information and available medical and social history of a decedent whose
16 body is in the custody of the medical examiner. If the decedent's body or part is medically
17 suitable for transplantation, therapy, research, or education, the medical examiner shall
18 release post-mortem examination results to the procurement organization, subject to
19 subsection (e) of this section. The procurement organization may make a subsequent
20 disclosure of the post-mortem examination results or other information received from the
21 medical examiner only if relevant to transplantation or therapy.

1 (b) The medical examiner may conduct a medicolegal examination by reviewing all
2 medical records, laboratory test results, x-rays, other diagnostic results, and other
3 information that any person possesses about a donor or prospective donor whose body is
4 under the jurisdiction of the medical examiner which the medical examiner determines may
5 be relevant to the investigation.

6 (c) A person with any information requested by a medical examiner pursuant to
7 subsection (b) of this section shall provide that information as soon as possible to allow the
8 medical examiner to conduct the medicolegal investigation within a period compatible with
9 the preservation of parts for the purpose of transplantation, therapy, research, or education.

10 (d) If the medical examiner determines that a post-mortem examination is not
11 required or that a post-mortem examination is required but that the recovery of the part that
12 is the subject of an anatomical gift will not interfere with the examination, the medical
13 examiner and procurement organization shall cooperate in the timely removal of the part
14 from the decedent for the purpose of transplantation, therapy, research, or education.

15 (e) If the decedent's death is the subject of a criminal investigation, the medical
16 examiner may not release the body or part that is the subject of an anatomical gift or the
17 social history, medical history or post-mortem examination results without the express
18 authorization of the prosecuting attorney of the county having jurisdiction over the
19 investigation.

20 (f) A medical examiner has the authority to deny recovery of a part subject to an
21 anatomical gift if he or she reasonably believes that recovery interfere with the post-mortem

1 investigation into the cause or manner of the decedent's death. If the medical examiner
2 is inclined to deny recovery, he or she shall first consult with the procurement organization
3 about the proposed recovery. Following consultation, and in the absence of mutually
4 agreed-upon protocols to resolve any conflict between the medical examiner and the
5 procurement organization, the medical examiner shall, at the request of the procurement
6 organization, attend a procedure for removing the part before making a final decision.
7 During the removal procedure, the medical examiner may decide whether to allow recovery
8 to proceed or to deny recovery.

9 (g) If the medical examiner denies recovery of the part, he or she shall:

10 (1) Provide the procurement organization with a written explanation of the specific
11 reasons for not allowing recovery of the part; and

12 (2) Include in the medical examiner's records the specific reasons for denying
13 recovery of the part.

14 (h) If the medical examiner allows recovery of a part, the procurement organization
15 shall, upon request, cause the physician or technician who removes the part to provide the
16 medical examiner with a written report describing the condition of the part, a biopsy, a
17 photograph or any other information and observations that would assist in the post-mortem
18 examination.

19 (i) A medical examiner required to be present at a removal procedure pursuant to
20 subsection (f) of this section is entitled to reimbursement for the expenses associated with
21 appearing at the recovery procedure from the procurement organization which requested

1 his or her presence.

2 (j) A medical examiner performing any of the functions specified in this section shall
3 comply with all applicable provisions of article twelve, chapter sixty-one of this code.

4 **§60-19-23. Relation to Electronic Signatures in Global and National Commerce Act.**

5 This act modifies, limits, and supersedes the Electronic Signatures in Global and
6 National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit or supersede
7 Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any
8 of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

The entire article was rewritten; therefore, strike-throughs and underscoring have been omitted.

NOTE: This bill repeals the current Anatomical Gift Act and replaces it with a Revised Act based on the Uniform Laws Commission's 2006 revision. The Revised Act makes it easier to make a document of gift, particularly with regard to organ donor notations on drivers' licenses and ID cards; authorizes additional persons, such as a medical power of attorney or health care surrogate, to make anatomical gifts on behalf of an incapacitated person before death actually occurs; expands the list of those who may make an anatomical gift after an individual dies without a document of gift; establishes presumptions for distribution fo body parts where the anatomical gift that does not specify to whom the gift passes; accommodates the use of donor registries; clearly provides for a document of refusal if an individual does not want organs donated; establishes criminal penalties for misrepresentation of a document of gift for the purposes of selling organs or tissue; and resolves ambiguity and conflict between anatomical gifts and "Do Not Resuscitate" instructions.

JOINT COMMITTEE ON PENSIONS AND RETIREMENT

Interim Report to the Joint Committee on Government and Finance
January 7, 2008

Senate Members:

Dan Foster, Chair
Brooks McCabe
Larry Edgell
Mike Oliverio
Robert Plymale
Frank Deem
Mike Hall

House Members:

Sharon Spencer, Chair
Kevin Craig, Vice Chair
Richard Browning
William Stemple
Dale Stephens
Ray Canterbury
Walter Duke

Introduction

During the 2007-2008 interim period, the Joint Committee on Government and Finance directed the Joint Committee on Pensions and Retirement to consider:

House Concurrent Resolution 35 - Requesting the Joint Committee on Pensions and Retirement study the effects of the contested merger between the Teachers' Defined Contribution Retirement System and the State Teachers Retirement System.

The Committee heard testimony on several topics, including: the TDC-TRS merger, the tobacco settlement bond sale and its impact on the Teachers' Retirement System, Universal Voluntary Retirement Accounts, a TDC actuarial report, the Emergency Medical Services Personnel retirement system and municipal pension systems.

Guest Speakers

Anne Lambright, Executive Director of the West Virginia Consolidated Public Retirement Board, and Harry Mandel, Actuary for the Consolidated Public Retirement Board, were in attendance for most committee meetings to make presentations on each topic and to respond to questions from the committee members.

During the August interims, Dean Baker, Co-director of the Center for Economic and Policy Research in Washington, D.C., discussed Universal Voluntary Retirement Accounts (UVA) and their potential to have a positive impact on workers in the state who are unable to accumulate sufficient assets through work-based retirement plans. A UVA is a state sponsored but privately managed defined contribution account. According to Mr. Baker, a system of universal voluntary retirement accounts would give every worker in the state a low-cost, portable, defined contribution account to which he or she could contribute directly from each paycheck.

Peter Verne of Buck Consultants, LLC in Washington, D.C. presented an actuarial report on the TDC-TRS merger during the September interim meeting in Martinsburg. Mr. Verne explained the results of the study, which determined the costs of five approaches to allow individual members in the TDC to elect to transfer their participation to TRS. The cost impact of each scenario was determined on "best case"/ "worst case" groupings.

Interim Legislation

The committee does not recommend any legislation for passage during the 2008 Regular Session.

Conclusions

The Committee requested additional information from several of the aforementioned presenters and all handouts and information contained in the minutes for the meetings are on file in the office of the Joint Committee on Pensions and Retirement. The committee will continue to monitor the status of the TDC-TRS merger, the outcome of the Emergency Medical Services Personnel retirement system election and the condition of municipal pension systems.

Respectfully Submitted,



Senator Dan Foster, Co-Chair



Delegate Sharon Spencer, Co-Chair

WEST VIRGINIA LEGISLATURE

Select Committee A Children, Juveniles and Other Issues

2007- 2008 Interims

SENATE MEMBERS

Senator Roman W. Prezioso, Jr., Chair
Senator Billy Wayne Bailey, Vice Chair
Senator Larry J. Edgell
Senator Dan Foster
Senator Jon Blair Hunter
Senator Jeffery V. Kessler
Senator Joseph Minard
Senator John Unger II
Senator Frank Deem
Senator Jesse O. Guills
Senator John Yoder

HOUSE MEMBERS

Delegate Virginia Mahan, Chair
Delegate Barbara Fleischauer, Vice Chair
Delegate Bonnie Brown
Delegate Jeff Eldridge
Delegate Ted Ellis
Delegate Tim Ennis
Delegate Ron Fragale
Delegate Dave Higgins
Delegate Tal Hutchins
Delegate Linda Longstreth
Delegate Bob Ashley
Delegate Ruth Rowan
Delegate Robert A. Schadler
Delegate Jeffrey Tansill

Final Report of Select Committee A Children, Juveniles and Other Issues

Select Committee A was appointed by the Joint Committee on Government and Finance following the 2007 Regular Session of the 78th Legislature. The Committee was assigned the following topics for study during the interim period:

HCR 40 - Requesting the establishment of a Children's Services Redesign Group.

HCR 42 - Requesting the Joint Committee on Government and Finance reconstitute Select Committee A on Children, Juveniles and Other Matters.

A Study of the Family Court System.

During the course of the 2007 - 2008 interim period, Select Committee A met and received information on these topics of study and other important issues related to protection of children and juveniles. Presentations were made and information was received from state agencies, the West Virginia State Police, the West Virginia Prosecuting Attorney's Institute, advocacy groups and other pertinent sources. The Committee **REPORTS** as follows:

CHILD PROTECTIVE SERVICES

The Committee continued its efforts to improve the delivery of services by Child Protective Services and heard from a variety of individuals with an interest in Child Protective Services within the Bureau for Children and Families at the Department of Health and Human Services. Staffing and training issues within the Bureau were addressed by Commissioner Jason Najmulski. Recruitment, retention and training of qualified Child Protective Service caseworkers have been significant issues. The Committee also heard about recruitment and retention from three Department of Health and Human Resources employees during interim meetings held in Martinsburg, West Virginia. Kathryn Boylan, Community Service Manager; Shelly Nicewarner, CPS Supervisor; and Beth Schott, CPS case worker. Ms. Boylan addressed the Committee regarding the problem of worker

retention. Ms. Boylan stated that the primary reasons for worker retention problems are rapid population growth in Jefferson, Berkeley and Morgan Counties, inadequate compensation, lucrative positions in neighboring states, and lack of ability to give pay raises to meet the increased cost of living in Jefferson, Berkeley and Morgan Counties. Ms. Nicewarner addressed the Committee regarding the CPS screening and referral process. She gave three examples of how cases were screened and whether they were referred to a CPS case worker. Ms. Schott explained to the Committee how she handles a case when it is referred to her and gave an example to illustrate this process. To gain a perspective of this issue from an area of the state that was not as dynamic as the eastern panhandle Mr. Gary McMullen, Cabell County Community Service Manager spoke to the Committee. Mr. McMullen presented the Committee with an overview for recruiting and retaining quality Child Protective Services in Cabell County. Mr. McMullen discussed many barriers to recruiting and retaining quality CPS workers. In addition, Mr. McMullen presented the Committee with recommendations for recruiting and retaining CPS workers in West Virginia. He recommended two pieces of legislation. First, one that provided CPS workers personal immunity from civil action for actions performed within the course of their job function. Secondly, he recommended an increased penalty for assault of a CPS worker.

The Committee again had a strong interest in attempting to address drug and alcohol abuse by a parent relative to child abuse and neglect.

The Committee also heard from the West Virginia State Police on the operation of the Child Protection Unit that was created out of legislation that passed during a 2006 Special Session. Lt. Jeff Schoolcraft provided the Committee with an update on the steps being taken to make the unit workable. Ms. Laura Sperry from the Bureau for Children and Families also presented an overview

of the Department's use of the newly created Child Abuse Registry. She gave the Committee some insight into the interaction of the Department and the West Virginia State Police in creation and use of the registry.

During the course of their work, the Committee became aware that the multi-disciplinary teams were not being effectively and uniformly used throughout the state. To gain some perspective on this, the Committee invited Phillip Morris, Executive Director, West Virginia Prosecuting Attorney's Institute to address them. Accompanying Mr. Morris, was Assistant Prosecuting Attorney for Kanawha County, Ariana Kincaid. They both spoke about the multi-disciplinary approach to children in abuse and neglect matters and the varied means at which the process is used throughout the state.

The Committee **RECOMMENDS** that the issue of Child Protective Services be continued for the next Interim period and that Select Committee A continue to monitor Child Protective Services. Additionally, the Committee **RECOMMENDS** the passage of the following pieces of legislation during the 2007 Regular Session of the Legislature:

A bill relating generally to child abuse and neglect that would amend the definition of "imminent danger" to include abuse of alcohol and drugs by a parent. This bill would also preclude registered sex offenders from having access to a child and make other technical corrections to the code making it consistent throughout. A copy of the proposed legislation is attached.

A bill relating to personal immunity of child protective services and adult protective service

workers for acts performed within their normal job function so long as these actions are not negligent or in willful or wanton disregard of the safety of others. A copy of the proposed legislation is attached.

A bill that would establish a heightened penalty for assault of either a child protective service worker or an adult protective service worker. A copy of the proposed legislation is attached.

A concurrent resolution urging the Governor to implement continued salary scale adjustments for structured pay increases for Child Protective Service workers to enable the Department of Health and Human Resources to recruit and retain qualified individuals in these positions. A copy of the proposed resolution is attached.

HCR 40 - Requesting the establishment of a Children's Services Redesign Group.

The Committee did not have adequate time to fully address the issue of establishment of a Children's Service Redesign Group. They did, however, hear from Barbara Rechnagle of the Foster Families Treatment Association who addressed the Committee regarding the State's foster care system. Ms. Rechnagle distributed a folder with handouts detailing various statistics and graphs and specifically, the performance outcome and results of West Virginia Child and Family Services Review.

The Committee **RECOMMENDS** that this issue be continued for further study during the 2008 interim to allow them to get a greater understanding of whether there is a need for such a group.

**HCR 42 - Requesting the Joint Committee on Government and Finance reconstitute
Select Committee A on Children, Juveniles and Other Matters.**

With the reappointment of Select Committee A during the 2007 interim period, no further action was necessary on this resolution. It is, however, the desire of the Committee to be reappointed to continue their work on children and juveniles over the 2008 interim period.

A Study of the Family Court System

The Committee heard from Tim Fittro and Ron Foster of Men and Woman Against Discrimination. They addressed the Committee regarding child welfare concerns as it relates to equal parenting. Mr. Fittro and Mr. Foster distributed various documents containing statistics and newspaper article clippings to support the contention that children need a more consistent male “father figure” presence in their lives and equal parenting would achieve this purpose.

The Committee also heard from Sue Julian, Team Coordinator, WV Coalition Against Domestic Violence. Ms. Julian discussed current West Virginia law and whether there was a need to amend current child custody laws and false representation laws. Ms. Julian’s recommendation to the Committee was that our current law did not need to be changed and that our family court system was adequately performing. She did, however, recommend an increase in the current family court judges.

The Committee makes no **RECOMMENDATION** regarding further study of the Family Court System. No other advocacy group or any court representative approached the Committee and requested this issue be studied any further.

Respectfully submitted:

Senator Roman W. Prezioso, Jr.

Co-Chair

Delegate Virginia Mahan

Co-Chair

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House/Senate Bill No.

(By)

[Introduced , 2008;
referred to the Committee on]

A BILL to amend and reenact §9-6-2 of the Code of West Virginia, 1931, as amended and to amend and reenact §49-6A-9 of said code, all relating to personal immunity from civil liability for adult protective service workers and child protective service workers performing employment related duties and responsibilities within their official capacity.

Be it enacted by the Legislature of West Virginia:

That §9-6-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §49-6A-9 of said code be amended and reenacted, all to read as follows:

§9-6-2. Adult protective services; immunity from civil liability; rules; organization and duties.

(a) There is hereby established and continued within the department of health and human resources the system of adult

1 protective services heretofore existing.

2 (b) The secretary shall propose rules for legislative approval
3 in accordance with the provisions of article three, chapter
4 twenty-nine-a of this code regarding the organization and duties of
5 the adult protective services system and the procedures to be used
6 by the department to effectuate the purposes of this article. The
7 rules may be amended and supplemented from time to time.

8 (c) The secretary shall design and arrange such rules to
9 attain, or move toward the attainment of the following goals, to
10 the extent that the secretary believes feasible under the
11 provisions of this article within the state appropriations and
12 other funds available:

13 (1) Assisting adults who are abused, neglected or
14 incapacitated in achieving or maintaining self-sufficiency and
15 self-support, and preventing, reducing and eliminating their
16 dependency on the state;

17 (2) Preventing, reducing and eliminating neglect and abuse of
18 adults who are unable to protect their own interests;

19 (3) Preventing and reducing institutional care of adults by
20 providing less intensive forms of care, preferably in the home;

21 (4) Referring and admitting abused, neglected or incapacitated
22 adults to institutional care only where other available services
23 are inappropriate;

24 (5) Providing services and monitoring to adults in

1 institutions designed to assist adults in returning to community
2 settings;

3 (6) Preventing, reducing and eliminating the exploitation of
4 incapacitated adults and facility residents through the joint
5 efforts of the various agencies of the department of health and
6 human resources, the adult protective services system, the state
7 and regional long-term care ombudsmen, administrators of nursing
8 homes or other residential facilities and county prosecutors;

9 (7) Preventing, reducing and eliminating abuse and neglect of
10 residents in nursing homes or facilities; and

11 (8) Coordinating investigation activities for complaints of
12 abuse and neglect of incapacitated adults and facility residents
13 among the various agencies of the department of health and human
14 resources, the adult protective services system, the state and
15 regional long-term care ombudsmen, administrators of nursing homes
16 or other residential facilities, county prosecutors, if necessary,
17 and other state or federal agencies or officials, as appropriate.

18 (d) No adult protective service caseworker shall be held
19 personally liable and shall be immune from suit for any claim for
20 damages for loss of property or personal injury or other civil
21 liability caused by, or arising out of, any actual or alleged act,
22 error or omission that occurred, or that the person against whom
23 the claim is made had a reasonable basis for believing occurred
24 within the scope of his or her employment, duties or

1 responsibilities including, but not limited to, those goals, duties
2 and responsibilities set forth in subsection (c) of this section:
3 Provided, That nothing in this subsection shall be construed to
4 protect any such person from suit or liability for any damage,
5 loss, injury or liability caused by the intentional or willful and
6 wanton misconduct of that person.

7 ~~(d)~~ (e) The rules proposed by the secretary shall provide for
8 the means by which the department shall cooperate with federal,
9 state and other agencies to fulfill the objectives of the system of
10 adult protective services.

11 **§49-6A-9. Establishment of child protective services; general**
12 **duties and powers; immunity from civil liability;**
13 **cooperation of other state agencies.**

14 (a) The state department shall establish or designate in every
15 county a local child protective services office to perform the
16 duties and functions set forth in this article.

17 (b) The local child protective service shall investigate all
18 reports of child abuse or neglect: *Provided, That under no*
19 *circumstances shall investigating personnel be relatives of the*
20 *accused, the child or the families involved. In accordance with*
21 *the local plan for child protective services, it shall provide*
22 *protective services to prevent further abuse or neglect of children*
23 *and provide for or arrange for and coordinate and monitor the*
24 *provision of those services necessary to ensure the safety of*

1 children. The local child protective service shall be organized to
2 maximize the continuity of responsibility, care and service of
3 individual workers for individual children and families: *Provided,*
4 *however,* That under no circumstances may the secretary or his or
5 her designee promulgate rules or establish any policy which
6 restricts the scope or types of alleged abuse or neglect of minor
7 children which are to be investigated or the provision of
8 appropriate and available services.

9 Each local child protective service office shall:

10 (1) Receive or arrange for the receipt of all reports of
11 children known or suspected to be abused or neglected on a
12 twenty-four hour, seven-day-a-week basis and cross-file all such
13 reports under the names of the children, the family and any person
14 substantiated as being an abuser or neglecter by investigation of
15 the department of health and human resources, with use of such
16 cross-filing of such person's name limited to the internal use of
17 the department;

18 (2) Provide or arrange for emergency children's services to be
19 available at all times;

20 (3) Upon notification of suspected child abuse or neglect,
21 commence or cause to be commenced a thorough investigation of the
22 report and the child's environment. As a part of this response,
23 within fourteen days there shall be a face-to-face interview with
24 the child or children and the development of a protection plan, if

1 necessary for the safety or health of the child, which may involve
2 law-enforcement officers or the court;

3 (4) Respond immediately to all allegations of imminent danger
4 to the physical well-being of the child or of serious physical
5 abuse. As a part of this response, within seventy-two hours, there
6 shall be a face-to-face interview with the child or children and
7 the development of a protection plan which may involve
8 law-enforcement officers or the court; and

9 (5) In addition to any other requirements imposed by this
10 section, when any matter regarding child custody is pending the
11 circuit court or family law master may refer allegations of child
12 abuse and neglect to the local child protective service for
13 investigation of the allegations as defined by this chapter and
14 require the local child protective service to submit a written
15 report of the investigation to the referring circuit court or
16 family law master within the time frames set forth by the circuit
17 court or family law master.

18 (c) In those cases in which the local child protective service
19 determines that the best interests of the child require court
20 action, the local child protective service shall initiate the
21 appropriate legal proceeding.

22 (d) The local child protective service shall be responsible
23 for providing, directing or coordinating the appropriate and timely
24 delivery of services to any child suspected or known to be abused

1 or neglected, including services to the child's family and those
2 responsible for the child's care.

3 (e) To carry out the purposes of this article, all
4 departments, boards, bureaus and other agencies of the state or any
5 of its political subdivisions and all agencies providing services
6 under the local child protective service plan shall, upon request,
7 provide to the local child protective service such assistance and
8 information as will enable it to fulfill its responsibilities.

9 (f)(1) In order to obtain information regarding the location
10 of a child who is the subject of an allegation of abuse or neglect,
11 the secretary of the department of health and human resources may
12 serve, by certified mail or personal service, an administrative
13 subpoena on any corporation, partnership, business or organization
14 for the production of information leading to determining the
15 location of the child.

16 (g) No child protective service caseworker shall be held
17 personally liable and shall be immune from suit for any claim for
18 damage for loss of property or personal injury or other civil
19 liability caused by, or arising out of, any actual or alleged act,
20 error or omission that occurred, or that the person against whom
21 the claim is made had a reasonable basis for believing occurred
22 within the scope of his or her employment, duties or
23 responsibilities including, but not limited to, those goals, duties
24 and responsibilities set forth in subsection (b) of this section:

1 Provided, That nothing in this subsection shall be construed to
2 protect any such person from suit or liability for any damage,
3 loss, injury or liability caused by the intentional or willful and
4 wanton misconduct of that person.

5 (2) In case of disobedience to the subpoena, in compelling the
6 production of documents, the secretary may invoke the aid of: (A)
7 The circuit court with jurisdiction over the served party, if the
8 person served is a resident; or (B) the circuit court of the county
9 in which the local child protective services office conducting the
10 investigation is located, if the person served is a nonresident.

11 (3) A circuit court shall not enforce an administrative
12 subpoena unless it finds that: (A) The investigation is one the
13 division of child protective services is authorized to make and is
14 being conducted pursuant to a legitimate purpose; (B) the inquiry
15 is relevant to that purpose; (C) the inquiry is not too broad or
16 indefinite; (D) the information sought is not already in the
17 possession of the division of child protective services; and (E)
18 any administrative steps required by law have been followed.

19 (4) If circumstances arise where the secretary, or his or her
20 designee, determines it necessary to compel an individual to
21 provide information regarding the location of a child who is the
22 subject of an allegation of abuse or neglect, the secretary, or his
23 or her designee, may seek a subpoena from the circuit court with
24 jurisdiction over the individual from whom the information is

1 sought.

NOTE: The purpose of this bill is provide personal immunity from civil liability for adult protective services workers and child protective service workers for acts, errors or omissions that occurred during the course of their official duties.

Strike-throughs indicate language that would be stricken from present law, and underscoring indicates new language that would be added.

1 Senate/House Bill No. _____
2 (By _____)
3 [Referred to the Committee on _____;
4 reported _____]

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10 A BILL to amend and reenact §61-2-10b of the code of West Virginia,
11 1931, as amended, relating to crimes against public safety,
12 services or enforcement officials; adding specified employees
13 of the Department of Health and Human Resources as protected
14 officials; and providing penalties.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §61-2-10b of the code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **CHAPTER 61. CRIMES AND THEIR PUNISHMENT**

19 **Article 2. CRIMES AGAINST THE PERSON.**

20 §61-2-10b. **Malicious assault, unlawful assault, battery and**
21 **recidivism of battery, and assault on public**
22 **safety, services or enforcement official;**
23 **penalties.**

1 ~~(e)~~ (a) For purposes of this section:

2 (1) "Designated employee of the Department of Health and Human
3 Resources" means any person employed by the Department of Health
4 and Human Resources as a social worker, child or adult protective
5 service worker, economic social worker, child support collection
6 worker, family support worker, public health worker, regulatory
7 enforcement worker, investigator for the office of inspector
8 general, or licensing worker.

~~(3)~~ (2) "Division of Forestry employee" means an officer,
agent, employee or servant, whether full-time or not, of the
Division of Forestry.

~~(2)~~ (3) "Employee of an urban mass transportation system"
means any person employed by an urban mass transportation system as
such is defined in section three, article twenty-seven, chapter
eight of this code or by a system that receives federal transit
administration funding under 49 U.S.C. §5307 or §5311.

~~(1)~~ (4) "Police officer" means any person employed by the
State Police, any person employed by the state to perform law-
enforcement duties, any person employed by a political subdivision
of this state who is responsible for the prevention or detection of
crime and the enforcement of the penal, traffic or highway laws of
this state or employed as a special police officer as defined in
section forty-one, article three of this chapter.

(5) "public safety, services or enforcement official" means any person acting in his or her official capacity as a police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee thereof, Division of Forestry employee, county correctional employee or state correctional employee, employee of an urban mass transportation system, any "designated employee of the Department of Health and Human Resources", or Public Service Commission motor carrier inspector.

~~(a) (b) Malicious assault. -- Any person who maliciously shoots, stabs, cuts or wounds or by any means causes bodily injury with intent to maim, disfigure, disable or kill a police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county correctional employee or state correctional employee, employee of an urban mass transportation system, or Public Service Commission motor carrier inspector acting in his or her official capacity public safety, services or enforcement official and the person committing the malicious assault knows or has reason to know that the victim is a police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county~~

~~correctional employee, state correctional employee, employee of an urban mass transportation system or Public Service Commission motor carrier inspector acting in his or her official capacity~~ public safety, services or enforcement official, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than three nor more than fifteen years.

(b) ~~(c)~~ Unlawful assault. -- Any person who unlawfully but not maliciously shoots, stabs, cuts or wounds or by any means causes a ~~police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county correctional employee or state correctional employee, employee of an urban mass transportation system or Public Service Commission motor carrier inspector acting in his or her official capacity~~ public safety, services or enforcement official a bodily injury with intent to maim, disfigure, disable or kill him or her and the person committing the unlawful assault knows or has reason to know that the victim is a ~~police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county correctional employee, state correctional employee, employee of an urban mass transportation system or Public Service Commission motor carrier inspector acting in his or her~~

~~official capacity public safety, services or enforcement official,~~
is guilty of a felony and, upon conviction thereof, shall be
confined in a correctional facility for not less than two nor more
than five years.

~~(c) (d) Battery. -- Any person who unlawfully, knowingly and
intentionally makes physical contact of an insulting or provoking
nature with a police officer, probation officer, conservation
officer, humane officer, emergency medical service personnel,
firefighter, State Fire Marshal or employee, Division of Forestry
employee, county correctional employee, state correctional
employee, employee of a mass transportation system or Public
Service Commission motor carrier inspector acting in his or her
official capacity, public safety, services or enforcement official,
or unlawfully and intentionally causes physical harm to a police
officer, probation officer, conservation officer, humane officer,
emergency medical service personnel, firefighter, State Fire
Marshal or employee, Division of Forestry employee, county
correctional employee, state correctional employee, employee of an
urban mass transportation system or a Public Service Commission
motor carrier inspector acting in such capacity, public safety,
services or enforcement official, is guilty of a misdemeanor and,
upon conviction thereof, shall be confined in jail for not less
than one month nor more than twelve months, fined the sum of five~~

hundred dollars, or both. If any person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than one year nor more than three years or fined the sum of one thousand dollars or both fined and confined. Any person who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than two years nor more than five years or fined not more than two thousand dollars or both fined and confined.

~~(d)~~ (e) Assault. -- Any person who unlawfully attempts to commit a violent injury to the person of a ~~police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county correctional employee, state correctional employee, employee of a mass transportation system or Public Service Commission motor carrier inspector acting in his or her official capacity,~~ public safety, services or enforcement official, or unlawfully commits an act which places a ~~police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, Division of Forestry employee, county correctional employee or state correctional employee, employee of a mass transportation system or Public Service Commission motor carrier~~

~~inspector acting in his or her official capacity~~ public safety,
services or enforcement official in reasonable apprehension of
immediately receiving a violent injury, is guilty of a misdemeanor
and, upon conviction thereof, shall be confined in jail for not
less than twenty-four hours nor more than six months, fined not
more than two hundred dollars, or both fined and confined.

NOTE: The purpose of this bill makes it a criminal offense to
commit malicious assault, unlawful assault, battery or assault
upon a child protective services caseworker or as a local
adult protective services caseworker employee.

Strike-throughs indicate language that would be stricken from
the present law and underscoring indicates new language that would
be added.

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Senate/House Bill No.
(By Senators/Delegates)

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10 A BILL to amend and reenact §49-1-3 of the Code of West Virginia,
11 1931, as amended, relating to the expansion of the definition
12 of "imminent danger to the physical well-being of the child"
13 with regard to child abuse and neglect to include alcohol and
14 substance abuse on the part of the parent or parents,
15 custodian or custodians, or guardian or guardians.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §49-1-3 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 1. PURPOSES; DEFINITIONS.**

20 **§49-1-3. Definitions relating to abuse and neglect.**

21 (a) "Abused child" means a child whose health or welfare is
22 harmed or threatened by:

23 (1) A parent, guardian or custodian who knowingly or
24 intentionally inflicts, attempts to inflict or knowingly allows
25 another person to inflict physical injury or mental or emotional

1 injury upon the child or another child in the home; or

2 (2) Sexual abuse or sexual exploitation; or

3 (3) The sale or attempted sale of a child by a parent,
4 guardian or custodian in violation of section sixteen, article
5 four, chapter forty-eight of this code.

6 In addition to its broader meaning, physical injury may
7 include an injury to the child as a result of excessive corporal
8 punishment.

9 (b) "Abusing parent" means a parent, guardian or other
10 custodian, regardless of his or her age, whose conduct, as alleged
11 in the petition charging child abuse or neglect, has been adjudged
12 by the court to constitute child abuse or neglect.

13 (c) "Child abuse and neglect" or "child abuse or neglect"
14 means physical injury, mental or emotional injury, sexual abuse,
15 sexual exploitation, sale or attempted sale or negligent treatment
16 or maltreatment of a child by a parent, guardian or custodian who
17 is responsible for the child's welfare, under circumstances which
18 harm or threaten the health and welfare of the child.

19 (d) "Child abuse and neglect services" means social services
20 which are directed toward:

21 (1) Protecting and promoting the welfare of children who are
22 abused or neglected;

23 (2) Identifying, preventing and remedying conditions which
24 cause child abuse and neglect;

25 (3) Preventing the unnecessary removal of children from their
26 families by identifying family problems and assisting families in

1 resolving problems which could lead to a removal of children and a
2 breakup of the family;

3 (4) In cases where children have been removed from their
4 families, providing services to the children and the families so as
5 to reunify such children with their families;

6 (5) Placing children in suitable adoptive homes when
7 reunifying the children with their families is not possible or
8 appropriate; and

9 (6) Assuring the adequate care of children who have been
10 placed in the custody of the department or third parties.

11 (e) "Imminent danger to the physical well-being of the child"
12 means an emergency situation in which the welfare or the life of
13 the child is threatened. Such emergency situation exists when
14 there is reasonable cause to believe that any child in the home is
15 or has been sexually abused or sexually exploited, or reasonable
16 cause to believe that the following conditions threaten the health
17 or life of any child in the home including, but not limited to:

18 (1) Nonaccidental trauma inflicted by a parent, guardian,
19 custodian, sibling or a babysitter or other caretaker;

20 (2) A combination of physical and other signs indicating a
21 pattern of abuse which may be medically diagnosed as battered child
22 syndrome;

23 (3) Nutritional deprivation;

24 (4) Abandonment by the parent, guardian or custodian;

25 (5) Inadequate treatment of serious illness or disease;

26 (6) Substantial emotional injury inflicted by a parent,

1 guardian or custodian; ~~or~~

2 (7) Sale or attempted sale of the child by the parent,
3 guardian or custodian; or

4 (8) The abusing parent or parents, custodian or custodians,
5 guardian or guardians have habitually abused or are addicted to
6 alcoholic liquor as that term is defined in section five, article
7 one, chapter sixty of this code, or controlled substances or drugs
8 as those terms are defined in section one hundred one, article one
9 of chapter sixty-a of this code to the extent that proper parenting
10 skills have been seriously impaired as a result of the abuse or
11 addiction.

12 (f) "Legal guardianship" means the permanent relationship
13 between a child and caretaker established by order of the circuit
14 court having jurisdiction over the child, pursuant to the
15 provisions of this chapter and chapter forty-eight of this code.

16 (g) "Multidisciplinary team" means a group of professionals
17 and paraprofessionals representing a variety of disciplines who
18 interact and coordinate their efforts to identify, diagnose and
19 treat specific cases of child abuse and neglect. Multidisciplinary
20 teams may include, but are not limited to, medical, educational,
21 child care and law-enforcement personnel, social workers,
22 psychologists and psychiatrists. Their goal is to pool their
23 respective skills in order to formulate accurate diagnoses and to
24 provide comprehensive coordinated treatment with continuity and
25 follow-up for both parents and children. "Community team" means a
26 multidisciplinary group which addresses the general problem of

1 child abuse and neglect in a given community and may consist of
2 several multidisciplinary teams with different functions.

3 (h) (1) "Neglected child" means a child:

4 (A) Whose physical or mental health is harmed or threatened by
5 a present refusal, failure or inability of the child's parent,
6 guardian or custodian to supply the child with necessary food,
7 clothing, shelter, supervision, medical care or education, when
8 such refusal, failure or inability is not due primarily to a lack
9 of financial means on the part of the parent, guardian or
10 custodian; or

11 (B) Who is presently without necessary food, clothing,
12 shelter, medical care, education or supervision because of the
13 disappearance or absence of the child's parent or custodian;

14 (2) "Neglected child" does not mean a child whose education is
15 conducted within the provisions of section one, article eight,
16 chapter eighteen of this code.

17 (i) "Parenting skills" means a parent's competencies in
18 providing physical care, protection, supervision and psychological
19 support appropriate to a child's age and state of development.

20 (j) "Sexual abuse" means:

21 (A) As to a child who is less than sixteen years of age, any
22 of the following acts which a parent, guardian or custodian shall
23 engage in, attempt to engage in or knowingly procure another person
24 to engage in with such child, notwithstanding the fact that the
25 child may have willingly participated in such conduct or the fact
26 that the child may have suffered no apparent physical injury or

1 mental or emotional injury as a result of such conduct:

2 (i) Sexual intercourse;

3 (ii) Sexual intrusion; or

4 (iii) Sexual contact;

5 (B) As to a child who is sixteen years of age or older, any of
6 the following acts which a parent, guardian or custodian shall
7 engage in, attempt to engage in or knowingly procure another person
8 to engage in with such child, notwithstanding the fact that the
9 child may have consented to such conduct or the fact that the child
10 may have suffered no apparent physical injury or mental or
11 emotional injury as a result of such conduct:

12 (i) Sexual intercourse;

13 (ii) Sexual intrusion; or

14 (iii) Sexual contact;

15 (C) Any conduct whereby a parent, guardian or custodian
16 displays his or her sex organs to a child, or procures another
17 person to display his or her sex organs to a child, for the purpose
18 of gratifying the sexual desire of the parent, guardian or
19 custodian, of the person making such display, or of the child, or
20 for the purpose of affronting or alarming the child.

21 (k) "Sexual contact" means sexual contact as that term is
22 defined in section one, article eight-b, chapter sixty-one of this
23 code.

24 (l) "Sexual exploitation" means an act whereby:

25 (1) A parent, custodian or guardian, whether for financial
26 gain or not, persuades, induces, entices or coerces a child to

1 engage in sexually explicit conduct as that term is defined in
2 section one, article eight-c, chapter sixty-one of this code;

3 (2) A parent, guardian or custodian persuades, induces,
4 entices or coerces a child to display his or her sex organs for the
5 sexual gratification of the parent, guardian, custodian or a third
6 person, or to display his or her sex organs under circumstances in
7 which the parent, guardian or custodian knows such display is
8 likely to be observed by others who would be affronted or alarmed.

9 (m) "Sexual intercourse" means sexual intercourse as that term
10 is defined in section one, article eight-b, chapter sixty-one of
11 this code.

12 (n) "Sexual intrusion" means sexual intrusion as that term is
13 defined in section one, article eight-b, chapter sixty-one of this
14 code.

15 (o) "Parental rights" means any and all rights and duties
16 regarding a parent to a minor child, including, but not limited to,
17 custodial rights and visitational rights and rights to participate
18 in the decisions affecting a minor child.

19 (p) "Placement" means any temporary or permanent placement of
20 a child who is in the custody of the state in any foster home,
21 group home or other facility or residence.

22 (q) "Serious physical abuse" means bodily injury which creates
23 a substantial risk of death, which causes serious or prolonged
24 disfigurement, prolonged impairment of health or prolonged loss or
25 impairment of the function of any bodily organ.

26 (r) "Siblings" means children who have at least one biological

1 parent in common or who have been legally adopted by the same
2 parents or parent.

3 (s) "Time-limited reunification services" means individual,
4 group and family counseling, inpatient, residential or outpatient
5 substance abuse treatment services, mental health services,
6 assistance to address domestic violence, services designed to
7 provide temporary child care and therapeutic services for families,
8 including crisis nurseries and transportation to or from any such
9 services, provided during fifteen of the most recent twenty-two
10 months a child has been in foster care, as determined by the
11 earlier date of the first judicial finding that the child is
12 subjected to abuse or neglect, or the date which is sixty days
13 after the child is removed from home.

NOTE: The purpose of this bill is to expand the definition of
"Imminent danger to the physical well-being of the child" with
regard to child abuse and neglect to include alcohol and substance
abuse on the part of the parent or parents.

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.

1 **SENATE/HOUSE CONCURRENT RESOLUTION NO.**

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3 **(By Senators/Delegates)**

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8 Requesting the Governor develop and present to the Legislature a
9 plan to implement continued salary scale adjustments for
10 structured pay increases for Child Protective Service workers
11 to enable the Department of Health and Human Resources to
12 recruit and retain qualified individuals in these positions.

13 **WHEREAS**, the State of West Virginia's has a great obligation
14 and a moral and legal duty to provide for the safety and health of
15 its most vulnerable citizens, the children of the state. This duty
16 and obligation sometimes requires intervention into families lives
17 causing representatives of the state, the Child Protective Service
18 workers, being charged with the difficult and important task of
19 working with families in crisis to assist them with services and to
20 assure other proper actions are taken to provide for the safety and
21 health of these children; and

22 **WHEREAS**, the Legislature is cognizant that Child Protective
23 Services Workers are in a position that requires a tremendous
24 amount of responsibility. To meet the demands placed upon Child

1 Protective Service Workers the State needs to assure that they are
2 well trained, highly qualified and experienced insuring they are
3 able to process cases and tend to children's critical needs in the
4 best possible manner; and

5 WHEREAS, historically the Child Protection Services workers who
6 undertake these tasks have been subject to a non-competitive wage
7 scale that is not consonant with the workers importance and
8 contribution, nor sufficient to prevent losing these workers to
9 other states and agencies that are willing to adequately compensate
10 them;

11 WHEREAS, in an attempt to make salaries of Child Protective
12 Service workers in West Virginia competitive with its surrounding
13 sister states, in the past three years the Legislature has provided
14 that Child Protective Services workers receive a pay increase; and

15 WHEREAS, even with this pay increase, border counties still
16 suffer from an inability to recruit and retain qualified workers
17 due to salary levels that do not remain competitive across state
18 lines; and

19 WHEREAS, non-border counties are also plagued with a lack of
20 experienced workers as workers who are hired routinely leave Child
21 Protective Service work for other positions within the Department
22 of Health and Human Resources that are more lucrative with less
23 stress; and

24 WHEREAS, a pay scale that is competitive with our border states

1 will encourage individuals to seek employment with Child Protective
2 Services and see this employment as a career goal not a means to
3 transition to other functions within the Department of Health and
4 Human Resources or as a training ground for employment in another
5 state; and

6 WHEREAS, the Legislature wants to recognize the important role
7 that qualified and experienced Child Protective Service Workers
8 play in our state through a competitive salary package that is
9 designed to place an appropriate emphasis upon the significant
10 tasks performed by Child Protective Service Workers in protecting
11 West Virginia's children; and therefore, be it

12 *Resolved, by the Legislature o West Virginia:*

13 That, the Governor develop and present to the Legislature a
14 plan to implement continued salary scale adjustments for the
15 Department of Health and Human Resources to allow that agency to
16 pay Child Protective Service Workers sufficient wages to make West
17 Virginia competitive with its sister states, and provide a greater
18 incentive for Child Protective Service Workers to remain in these
19 most important positions.

Select Committee B- Veterans' Issues

Interim Report to the Joint Committee on Government and Finance
January 6, 2008

Senate Members

Senator Hunter, Co-Chair
Senator Foster
Senator Jenkins
Senator Wells
Senator Barnes
Senator Deem

House Members

Delegate Fleischauer, Co-Chair
Delegate Iaquina, Co-Chair
Delegate Longstreth
Delegate Stephens
Delegate Yost
Delegate Azinger
Delegate Tansill

The Joint Committee on Government and Finance requested Select Committee B- Veterans' Issues consider the following study resolution during the 2007-2008 Interim period:

House Concurrent Resolution 75 - Requesting the Joint Committee on Government and Finance to make a study of the needs of soldiers and veterans who have been injured in the Iraq/Afghanistan wars.

Select Committee B- Veterans' Issues met each month during the Interim period to discuss the needs and issues facing veterans, the current state of veteran benefits, and ways to bridge the gap between Federal and State services. The Committee considered testimony from state agencies and other organizations as follows:

West Virginia Council of Churches

Reverend Dennis Sparks and Reverend Ricardo Flippin provided an overview of their program, "When Our Military Members Are Deployed: Supporting West Virginia Military Members and Their Families."

Huntington Veterans Affairs Medical Center

Edward Seiler, Director, gave an overview of the Huntington VAMC's and the Veterans' Health Administration's operations.

West Virginia University's Health Sciences Center, Rural Health Division

Hilda Heady, Associate Vice President, gave an overview of Rural Health Education Partnerships and work at VA Training Sites. Ms. Heady gave recommendations to the Committee on how better the state may assist rural veterans and soldiers with regard to receipt of health care.

Charleston Area Veterans' Center

Jesse Coulter gave an overview of the Vet Centers' operations and roles in providing support to veterans.

West Virginia Division of Veterans' Affairs

Robbie Robinson, Veteran's Service Officer, Martinsburg Field Office, discussed various aspects of his position and his office's role in supporting veterans.

West Virginia Veterans' Home

Larry Blackaby, Administrator, presented to the Committee information on available resources to homeless veterans.

West Virginia Division of Veterans' Affairs

Larry Linch, Director, presented to the Committee an update on the progress of the Veterans nursing home in Clarksburg, West Virginia and gave information about the new Veterans State cemetery to be built in Institute, West Virginia. Director Linch also gave an update on West Virginia's participation in the State's Benefits Seamless Transition Program.

West Virginia Adjutant General's Office

Major General Allen E. Tackett, Adjutant General, spoke on the West Virginia National Guard and services available to veterans and their families during and post deployment.

Thanks, Plain and Simple.

Anne Montague spoke to the Committee on the role the organization plays in helping deployed service members, veterans, and their families. Woody Williams spoke to the Committee about creating a monument dedicated to the mothers of veterans in West Virginia.

Volunteers of America

Mandell Smith, Program Manager for Homeless Veterans in West Virginia, Volunteers of America, spoke to the Committee about his organization's role in helping homeless veterans in dealing with substance abuse, employment, and living quarters.

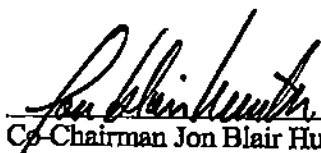
West Virginia University

Joseph R. Scotti, Ph. D., Professor of Clinical Psychology gave the preliminary findings of the state wide veterans' survey.

The Committee drafted letters to the following individuals:

1. The Joint Committee on Government and Finance- Requesting the funding to perform a statewide survey of veterans' needs, services, and concerns;
2. Governor Joe Manchin- Requesting that the Governor add to his Budget Proposal \$50,000.00 for the purchase of Evacusleds for the nursing home facility in Clarksburg, West Virginia;
3. Brian Noland, Chancellor of the West Virginia Higher Education Policy Commission- Requesting that the Chancellor identify social workers and psychologists as "shortage areas" in order to be eligible for the Health Sciences Scholarship Program.

Respectfully submitted,


Co-Chairman Jon Blair Hunter


Co-Chairwoman Barbara Fleischauer


Co-Chairman Richard J Jaquinta

WEST VIRGINIA LEGISLATURE

SELECT COMMITTEE "C" INFRASTRUCTURE

2007- 2008 Interims

SENATE MEMBERS

Senator Unger, Co-Chair
Senator Bailey
Senator Fanning
Senator Jenkins
Senator Facemyer

HOUSE MEMBERS

Delegate Hrutkay, Co-Chair
Delegate Stephens, Vice Chair
Delegate Barker
Delegate Boggs
Delegate Cann
Delegate Kominar
Delegate Reynolds
Delegate Swartzmiller
Delegate Yost
Delegate Cowles
Delegate Miller, C
Delegate Miller, J

Final Report of

SELECT COMMITTEE "C" - INFRASTRUCTURE

Select Committee "C"- Infrastructure was established by the Joint Committee on Government and Finance proceeding the 2007 Legislative Session. The Committee was assigned the following study topics to be discussed during the 2007 Interim Period:

Select Committee C - Infrastructure

HCR77 - Requesting the Joint Standing Committee on Government and Finance to conduct a study of the effects of the REAL ID Act of 2005

HCR 84 - Requesting the Joint Committee on Government and Finance study prohibiting oil and gas drillers from "daylighting" roads and sites except under certain conditions

HCR 80 Requesting the Committee on Government and Finance to conduct a study on transportation safety in West Virginia

SCR 84 Requesting Joint Committee on Government and Finance study vehicle weights on interstates

SB 497 Creating WV Community Empowerment Transportation Act

The Committee met during the course of the 2007- 2008 interim period met and received information on various topics of study and other important healthcare issues from state agencies, political subdivisions, advocacy groups and other pertinent sources. Those sources include:

Real ID. Act of 2005 - Christy Morris, Deputy Secretary for Legislative Affairs, Military Affairs and Public Safety and Jeremy Meadows, Senior Policy Director for Trade and Transportation, National Counsel of State Legislatures

Tractor-Semitrailer Combinations/Interstate and Defense Highway Operations - Steve Yeager, Board of Directors, Truck Committee Chairman, WV Forestry Association; Marvin Murphy, State Highway Engineer, WV Division of Highways

Transportation Safety - Marvin Murphy, State Highway Engineer, WV Division of Highways

Rail Safety and Security - James A. Stern, Alternate National Legislative Director, United Transportation Union

Daylighting - Dave McMahon, Lawyer for Surface Owners; Roger Davis, Individual Property/Surface Owner; Duke Layfield, Individual Property/Surface Owner; Corky DeMarco, Oil and Natural Gas Association; Charlie Burd, WV Independent Oil and Gas Association; James Martin, Chief of the Office of Oil and Gas, DEP; Charles R. Dye, Division of Forestry

Bridge Safety - Marvin Murphy, State Highway Engineer, WV Division of Highways

The Committee discussed and considered the following pieces of legislation:

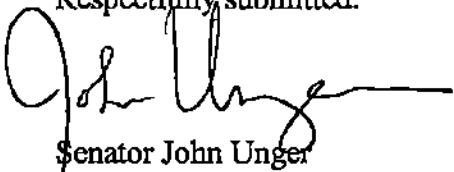
1) **HB/SB ___ - Creating WV Community Empowerment Transportation Act**

- The bill was presented, discussed and considered. No action was taken.

2) **HB/SB ___ - Relating to permits for well work**

- The bill was presented to the Committee and failed.

Respectfully submitted:



Senator John Unger
Co-Chair



Delegate Lidella Hrutkay
Co-Chair

WEST VIRGINIA LEGISLATURE

SELECT COMMITTEE D ON HEALTH

2006- 2007 Interims

SENATE MEMBERS

Senator Roman W. Prezioso, Jr. Chair
Senator Dan Foster
Senator Evan Jenkins
Senator Ron Stollings
Senator Don Caruth
Senator Vic Sprouse

HOUSE MEMBERS

Delegate Don Perdue, Chair
Delegate Barbara Hatfield
Delegate Charlene Marshall
Delegate Harold Michael
Delegate Clif Moore
Delegate Ralph Rodighiero

Final Report of

SELECT COMMITTEE "D" ON HEALTH

Select Committee D on Health was appointed by the Joint Committee on Government and Finance, following the 2007 Regular Session of the 78th Legislature. The Committee was assigned the following topics for study during the interim period:

SENATE CONCURRENT RESOLUTION 82. Requesting Joint Committee on Government and Finance appoint select interim committee to study health care reform options.

SENATE CONCURRENT RESOLUTION 77. Requesting Joint Committee on Government and Finance study certificate of need review process within Health Care Authority.

HOUSE CONCURRENT RESOLUTION 14. Requesting the Joint Committee on Government and Finance to study the state of the delivery of health care in West Virginia.

HOUSE CONCURRENT RESOLUTION 53. Exploring option to improve school health and healthy lifestyles.

HOUSE CONCURRENT RESOLUTION 58. Requesting the Joint Committee on Government and Finance direct the Legislative Oversight Committee on Health and Human Resources Accountability study rebalancing the long-term care system.

HOUSE CONCURRENT RESOLUTION 81. Requesting the Joint Committee on Government and Finance study the statistical rate of autism among this state's population and to study existing autism services in this state.

ORAL HEALTH. Access to oral health services.

During the course of the 2007 - 2008 interim period Select Committee D met and received information on these topics of study and other important healthcare issues from state agencies, political subdivisions, advocacy groups and other pertinent sources.

The Committee **REPORTS** as follows:

The Committee made a number of administrative requests to the Joint Committee on Government and Finance. These included:

- Allocation of \$100,000 to contract an experience consultant to assist the members in their study of health care in West Virginia;
- Authority to create two (2) subcommittees to study and report back to the full committee on oral health and the certificate of need process;
- Transfer of House Concurrent Resolution No. 53 requesting the Joint Committee on Government and Finance direct the Legislative Oversight Commission on Health and Human Resources Accountability study rebalancing the long-term care system to the Legislative Oversight Commission on Education Accountability; and
- Transfer of House Concurrent Resolution No. 58 requesting the Joint Committee on Government and Finance direct the Legislative Oversight Commission on Health and Human Resources Accountability study rebalancing the long-term care system to the Legislative Oversight Commission on Health and Human Resources Accountability.

All of these requests were approved by Speaker Richard Thompson and President Earl Ray Tomblin by letter dated May 22, 2007. A copy of that letter is attached. Subcommittees were created and were comprised of the following:

Certificate of Need

Senate Members

Dan Foster, Chair
Evan Jenkins
Vic Sprouse

House Members

Harold Michael, Chair
Charlene Marshall
Clif Moore

Oral Health

Senate Members

Ron Stollings, Chair
Don Caruth

House Members

Barbara Hatfield, Chair
Larry Border

HEALTH CARE REFORM

The Committee heard from Sally Richardson from the West Virginia University Institute for Health Policy Research at the Robert C. Byrd Health Sciences Center. Ms. Richardson provided an overview of the work conducted by the Health Care Planning Commission that was done in the early 1990's. This was to set the stage for the Committee to contract with a health care expert and to help them focus on what the desired outcome of the work of the expert might be.

The Committee discussed the direction in which they wished to proceed with contracting services of a health care expert. Staff was directed to conduct research into experts which may be available and interested in offering a proposal to the Committee to contract for the desired services. Extensive time was spent on the qualifications the expert should possess and the focus the Committee wished the expert to proceed with the study.

Following the preparation of a Request for Proposal (RFP) the Committee received two (2) proposals. The Chairs reviewed both proposals and presented an overview of each to the full committee. Following discussions, it was decided to award the contract to Kenneth E. Thorpe. Mr. Thorpe is Chair of the Department of Health Policy and Management at the Rollins School of Public Health at Emory University. He has worked in health policy and health care economics

for over twenty (20) years. Prior to beginning his work with West Virginia, he had performed similar work for Vermont and served as Deputy Assistant Secretary of Health Policy under President Bill Clinton.

Mr. Thorpe addressed the Committee during the October interims and gave an overview of how he wishes to proceed. He provided an overview of his thoughts and ideas of health care reform in West Virginia and gave the Committee some background on his education and experience.

The Committee **RECOMMENDS** that Senate Concurrent Resolution 82 and House Concurrent Resolution 14 be continued for the next Interim period to allow the Committee to work with Mr. Thorpe and present comprehensive health care reform legislation as early as the 2009 Regular Session of the Legislature.

AUTISM SERVICES IN THE STATE

The Committee heard Dr. Barbara Becker of the West Virginia Autism Training Center at Marshall University on the myriad of services available at that facility. She discussed their outreach, respite and educational services. Additionally, the Committee heard from Loretta Haddy, State Epidemiologist and Director of the Division of Surveillance and Disease Control from the Bureau for Public Health on Thimerosal in vaccinations and the possible link with autism.

The Committee **RECOMMENDS** that the Resolution be continued for the additional study during the 2008 interim period.

ORAL HEALTH

The subcommittee dedicated to oral health heard from a number of providers, advocates and from the National Conference of State Legislators on oral health concerns. Beverly Railey Walter of the Benedum Foundation discussed their efforts to improve oral health services in West Virginia. Drs. Elliott Shulman, Bridget Boggs Stevens, Byron Black and Carol Buffington presented oral health concerns from dentists and oral surgeon perspectives. Additionally, Jennifer Blaskovich and Gina Sharps provided insight into the dental hygienist perspective.

The Committee also heard from Renata Pore, the Director of WV Healthy Kids and Family Coalition about their work. Ms. Pore offered recommendations for improving oral health services throughout the state. The Department of Health and Human Resources provided an overview of the services they provide in presentations made by Phil Edwards, Director of Infant, Child and Adolescent Health at the Bureau for Public Health and Marsha Morris, Commissioner of the Bureau for Medical Services. Pat White the Director the WV Free Clinic also provided information to the Committee on their oral health recommendations.

During the month of September, the Legislature met in meetings in Martinsburg, West Virginia. At that meeting, James J. Crall, DDS spoke. Dr. Crall is the Director of MNCHB, National Oral Health Policy Center and is the Professor and Chair on the Section of Pediatric Dentistry at UCLA School of Dentistry. He spoke under the auspices of the National Conference of State Legislators. He provided an overview of oral health efforts that were currently underway or being considered by other states.

The subcommittee made the following **RECOMMENDATIONS**:

1. That an Office of Oral Health be created within the Department of Health and Human Resources reporting to the Commissioner of Public Health and that a full time director be named. Enacting legislation should continue many of the same responsibilities of the current oral health program but should also include:
 - a. an advisory board to develop a comprehensive state oral health plan with specific goals and required reporting to LOCHHRA;
 - b. move funding from the Division of Maternal and Child Health to the new office, unless specifically earmarked for the division.
2. That a letter be drafted from the full committee to the Secretary of the Department of Health and Human Resources and the Commissioner of the Bureau for Medical Services supporting an increase in the reimbursement for emergency and oral surgery services which would increase reimbursement to the 50th percentile of average charges.
3. That reimbursement for dentists be evaluated for an increase to ensure the availability of dentists to Medicaid recipients in the state. Financial implications of this should be sent to the co-chairs for Select D for consideration in the 2008 State Budget.
4. Legislation to create a volunteer dental license, similar to the volunteer physician license, to enable retired dentists to provide free services when possible.
5. Reauthorization of the West Virginia Neighborhood Investment Program and an increase in the available tax credit from the current \$2 million to \$4 million.
6. Preventative oral health care be promoted for all West Virginians, with all health care payers, through an outreach campaign that promotes oral health among children and pregnant women. This would require a cost benefit analysis by both Medicaid and PEIA to study the costs and benefits of providing a limited oral health benefit for prevention and infection control for pregnant women over 21 years of age.
7. Support of any legislation advanced by the W. Va. Dental Association and the W. Va. Dental Hygienists Association that would increase the number of oral health providers and services they may provide in the state.

8. Support of any efforts by the Department of Education to require every child entering kindergarten, second and sixth grades to have a dental exam by a licensed practicing dentists.
9. Legislation that would prohibit the use and sale of sugary snacks and sugary beverages in schools in all 55 West Virginia counties.
10. That equity be created between SCHIP and PEIA by providing some oral health coverage for PEIA children who are below 300% of the federal poverty level. Currently, PEIA is statutorily prohibited from using state funds to offer an oral health benefit.
11. That preventative oral health care be integrated into primary care practices. This would require training and reimbursement for primary care practices to do preventive oral health care including fluoride varnishes on primary teeth young children.
12. That a study be conducted on the denial of coverage by several insurance companies in West Virginia for medical costs associated with required dental care in the operating room under general anesthesia for the very young or disabled.
13. That the Subcommittee be continued for the 2008 interim period.

All of these recommendations were adopted by the full committee at a meeting held on December 11, 2007. Draft copies of legislation required for recommendations, 1, 4 and 9 are attached to this report.

CERTIFICATE OF NEED

The subcommittee on Certificate of Need heard from various entities, advocacy groups and government agencies. Marianne Kapinos of the Health Care Authority provided a historical perspective on certificate of need. She discussed why it came about, the process in getting it passed in West Virginia and how it operated at the Health Care Authority. The American Medical Association and the West Virginia Hospital Association also provided their groups thoughts on the need to continue certificate of need. The Committee also received input from the Chamber of Commerce and the insurance industry and heard from the National Conference of State Legislators on trends with certificate of need nationally. Finally, Sonia Chambers, Chair of the Health Care Authority presented her views on the issue.

The Subcommittee **RECOMMENDS** no specific legislation for passage during the 2008 Regular Session of the Legislature. They further recommended that the Subcommittee be continued during the next interim period to address this issue further. Specifically, the Subcommittee wanted to further examine the effect of certificate of need on specific issues currently subject to certificate of need, gather greater, and more detailed and balanced data on both sides of the issue and look particularly at the effects of certificate of need on border counties.

The full committee adopted the recommendations of the subcommittee at a meeting held on December 11, 2007.

MISCELLANEOUS

The Committee also heard from Sharon Carte, Director of the State Children's Health Insurance Program, regarding the deliberations on the federal level with respect to federal reauthorization of the program. Ms. Carte indicated that the West Virginia program appeared to be financially sound enough to weather the storm until the issue was resolved federally.

Respectfully submitted:

Senator Roman W. Prezioso, Jr.
Co-Chair

Delegate Don Perdue
Co-Chair

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Senate Bill No.

(By Senators Stollings, Prezioso, Foster, Jenkins,
Caruth and Sprouse)

[Introduced , 2007;
referred to the Committee on]

A BILL to amend and reenact §18-2-6a of the Code of West Virginia, 1931, as amended, relating to providing only health beverages and healthy and nutritional snacks in the county school system.

Be it enacted by the Legislature of West Virginia:

That §18-2-6a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

§18-2-6a. Sale of healthy beverages and snacks in schools.

(a) In order to generate funding for necessary programs and supplies, county boards may permit the sale of healthy beverages ~~and soft drinks and health snacks, as those terms are defined in this section~~ in county schools. ~~except during breakfast and lunch periods as follows:~~

~~(1) During a school day, soft drinks may not be sold in areas~~

1 ~~accessible to students in an elementary school, middle school or~~
2 ~~junior high school through vending machines on the premises, in~~
3 ~~school stores or in school canteens or through fund raisers by~~
4 ~~students, teachers, groups or by any other means. In elementary,~~
5 ~~middle school or junior high school, only healthy beverages may be~~
6 ~~sold in vending machines on the premises, in school canteens or~~
7 ~~through fund raisers by students, teachers, groups or by any other~~
8 ~~means. Nothing in this section shall be construed to prohibit or~~
9 ~~limit sale or distribution of any food or beverage item through~~
10 ~~fund-raising activities of students, teachers or educational groups~~
11 ~~when the items are intended for sale off the school grounds.~~

12 ~~(2) Those high schools which permit the sale of soft drinks~~
13 ~~through vending machines also shall offer for sale healthy~~
14 ~~beverages. Of the total beverages offered for sale, at least fifty~~
15 ~~percent shall be healthy beverages. Vending machines containing~~
16 ~~healthy beverages shall be in the same location or substantially~~
17 ~~similar location as vending machines containing soft drinks.~~

18 ~~(3) The sale of healthy beverages and soft drinks~~ healthy or
19 nutritional snacks shall be in compliance with the rules of the
20 National School Lunch Program and the School Breakfast Program of
21 the State Board and the Nutrition Service of the United States
22 Department of Agriculture, which became effective on the
23 seventeenth day of June, one thousand nine hundred eighty-five.
24 Seventy-five percent of the profits from the sale of healthy

1 beverages and ~~soft drinks~~ healthy or nutritional snacks shall be
2 allocated by a majority vote of the faculty senate of each school
3 and twenty-five percent of the profits from the sale of healthy
4 beverages and ~~soft drinks~~ healthy or nutritional snacks shall be
5 allocated to the purchase of necessary supplies by the principal of
6 the school.

7 (b) For the purposes of this section:

8 ~~(1) "School day" means the period of time between the arrival~~
9 ~~of the first student at the school building and the end of the last~~
10 ~~instructional period; and~~

11 ~~(2) (1) "Healthy beverage" means water, one hundred percent~~
12 ~~fruit and vegetable juice with no added sugars, flavored or~~
13 ~~unflavored non-fat or low-fat milk. and other juice beverages with~~
14 ~~a minimum of twenty percent real juice; Fruit and vegetable juice~~
15 ~~portion sizes should be limited to no more than 4 ounces for~~
16 ~~elementary students and no more than 8 ounces for middle or high~~
17 ~~school students per product or package. Coffee, coffee-based~~
18 ~~products and caffeine containing beverages, with the exception of~~
19 ~~those containing trace amounts of naturally occurring caffeine~~
20 ~~substances, are prohibited; and~~

21 ~~(2) "Healthy or nutritional snacks" means fruits, vegetables,~~
22 ~~cheese, yogurt, grain foods containing whole grain as the first~~
23 ~~listed ingredient, nuts and/or seeds. Nutritional elements on~~
24 ~~healthy snacks should:~~

1 (A) Limit total calories to no more than 200 per product or
2 package;

3 (B) Limit total fat to no more than 35% of calories per
4 product or package excluding nuts, seeds or cheese;

5 (C) Limit saturated fat to less than 10% of the total
6 calories;

7 (D) Limit trans fat to less than or equal to 0.5 grams per
8 product or package;

9 (E) Reduce sugar content of food items to no more than 35% of
10 calories per product excluding fruits;

11 (F) Limit sodium to no more than 200 milligrams per product or
12 package;

NOTE: The purpose of this bill is provide that only healthy beverages and healthy or nutritional snacks may be sold in the county school system.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.

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H. B. /

(By Delegates /)

[Introduced ; referred to the
Committee on .]

10 A BILL to amend and reenact §16-41-1, §16-41-2, §16-41-3, §16-41-4,
11 §16-41-5 and §16-41-6 of the Code of West Virginia, one thousand
12 nine hundred thirty-one, as amended, relating to the establishment
13 of the Office of Oral Health in the Bureau of Public Health,
14 creation of a full time director and the establishment of an
15 advisory board and the responsibilities of the Office of Oral
16 Health.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §16-41-1, §16-41-2, §16-41-3, §16-41-4, §16-41-5 and §16-
19 41-6 of the Code of West Virginia, one thousand nine hundred
20 thirty-one, as amended, be amended and reenacted to read as
21 follows:

22 **ARTICLE 41. Office of Oral Health**

23 **§16-41-1. Short title.**

24 1. This article may be cited as the "West Virginia Oral Health

1 Improvement Act".

2 **§16-41-2. Oral health program and director.**

3 1. (a) The commissioner of the bureau for public health shall
4 establish and maintain an Office of Oral Health ~~oral health~~
5 program to report directly to the commissioner.

6 (b) The commissioner of the bureau for public health shall employ
7 a full time director. The director shall have at least three
8 years' experience in health or management in a health care
9 related setting. The director shall employ any administrative or
10 professional employees required for the proper administration of
11 the programs provided in this article. The director shall appoint
12 a consulting ~~appoint a dentist licensed in this state. as~~
13 ~~director of the oral health program who~~ The director shall
14 administer the program pursuant to the provisions of section
15 three of this article.

16 **§16-41-3. Duties and directives of the office of oral health**
17 **program.**

18 (a) The director of the ~~oral health program~~ Office of Oral Health
19 shall implement and maintain the oral health program to include,
20 but not be limited to, the following goals and objectives:

21 (1) ~~The development of a comprehensive dental health plans~~
22 ~~within the framework of the state plan of operation, provided for~~
23 ~~in subsection (f), section six, article one of this chapter, to~~

1 ~~maximize use of all available resources~~ The establishment of an
2 advisory board to advise the director in the development of a
3 comprehensive plan with designated benchmarks and responsible
4 parties to improve the oral health of citizens in the state. The
5 advisory board shall consist of the director of the Office of
6 Oral health who will serve as the chairperson, a representative
7 of the West Virginia Dental Association, the West Virginia Dental
8 Hygienist Association, the WVU Dental School, the West Virginia
9 Primary Care Association, the Free Clinics in West Virginia, a
10 dentist and a dental hygienist working in private practice in the
11 state, a pediatrician and family practice physician, a
12 representative of the Bureau of Medical Services, a
13 representative of the SCHIP program and the Public Employee
14 Insurance Program, a representative of the Department of
15 Education and other representaives of state agencies and private
16 sector entities who the director believes will bring a broad
17 prevention prespective to the board;

18 (2) Providing the consultation necessary to coordinate federal,
19 state, county and city agency programs concerned with dental
20 health;

21 (3) Encouraging, supporting and augmenting the efforts of local
22 boards of health and boards of education in the implementation of
23 a dental health component in their program plans;

24 (4) Providing consultation and program information to, at a

1 minimum, health professions, health professional educational
2 institutions, school educators, extension specialists and
3 volunteer agencies;

4 (5) Providing programs aimed at preventing and detecting oral
5 cancer in the state, with a primary focus of meeting the needs of
6 high-risk under-served populations, with the intent to reduce
7 oral cancer mortality;

8 (6) Providing programs addressing oral health education and
9 promotion, including:

10 (A) Public health education to promote the prevention of oral
11 disease through self-help methods, including the initiation and
12 expansion of preschool, school age and adult education programs;

13 (B) Organized continuing health education training programs for,
14 at a minimum, health care providers, school educators and
15 extension specialists; and

16 (C) Preventive health education information for the public;

17 (7) Facilitation of access to oral health services, including:

18 (A) The improvement of the existing oral health services delivery
19 system for the provision of services to all West Virginia
20 residents;

21 (B) Outreach activities to inform the public of the type and
22 availability of oral health services to increase the

1 accessibility of oral health care for all West Virginia
2 residents; and—
3 (C) Design of oral health programs that assure children entering
4 kindergarten, grade two and grade six have an oral health exam
5 and appropriate preventative programs including recommendations
6 for potential funding sources;
7 (D) Design of a training program for pediatricians, -primary care
8 providers and their staff in certain preventive oral health
9 procedures;
10 ~~(C)~~ (E) Assistance and cooperation in promoting better
11 distribution of dentists and other oral health professionals
12 throughout the state;
13 (8) Providing programs specifically targeting prevention of tooth
14 loss and the restoration of existing teeth to the extent that
15 funds are available.
16 (9) Providing oral or dental health services to individuals in
17 need, to the extent funds are available for the services; and
18 (10) Provide evaluation of these programs in terms of preventive
19 services.
20 (b) In consultation with dental care providers, the ~~commissioner~~
21 director shall develop and implement ongoing oral cancer
22 educational programs in the state:

1 (1) To train health care providers to screen and properly refer
2 patients with oral cancers; and

3 (2) To promote the cessation of the use of alcohol and tobacco
4 products with a primary focus of meeting the needs of high-risk
5 under-served populations.

6 (c) The programs developed and implemented under this section
7 shall address:

8 (1) The risk factors that lead to oral cancer;

9 (2) The signs and symptoms of oral cancer;

10 (3) The high-risk behaviors that may lead to oral cancer; and

11 (4) The accessibility of screening to detect oral cancer.

12 (d) In addition to the duties and responsibilities required under
13 this section, the director of the oral health program shall
14 administer and supervise all dental health programs within the
15 bureau for public health.

16 **§16-41-4. Receipt of funds; special revenue account.**

17 1. (a) ~~The secretary of the department of health and human~~
18 ~~resources may, in his or her discretion,~~ Secretary of Health and
19 Human Resources shall transfer funds previously used in the oral
20 health program unless specifically earmarked for the Division of
21 Maternal and Child Health and from other programs within his or

1 her control, to the special revenue account created in this
2 section for the purposes established in this article.

3 (b) The director may apply for and receive for the ~~oral health~~
4 ~~program~~ Office of Oral Health any financial aid granted by any
5 private, federal, state or local or other grant or source.

6 (c) There is hereby established in the state treasury a special
7 revenue account designated the ~~"Oral Health Program Fund"~~ "Office
8 of Oral Health Fund". All funds received by the director for the
9 oral health program shall be deposited in the special revenue
10 account.

11 (d) Moneys deposited in this fund shall be used exclusively to
12 provide oral health services to accomplish the purposes of this
13 article. Expenditures of moneys deposited in this fund are to be
14 made in accordance with appropriation by the Legislature and in
15 accordance with article three, chapter twelve of this code and
16 upon fulfillment of the provisions of article two, chapter ~~five-a~~
17 ~~eleven-b~~ of this code: ~~Provided, That for the fiscal year~~
18 ~~beginning the first day of July, two thousand two, expenditures~~
19 ~~are authorized from deposits rather than pursuant to~~
20 ~~appropriation by the Legislature.~~ The director may disburse funds
21 from the special revenue account as required by this article.

22 **§16-41-5. Contracts.**

23 1. The director may enter into contracts and agreements necessary

1 to facilitate the efficient and economical provision of oral
2 health services under this article, including contracts for the
3 purchase of services, equipment, and supplies from qualified
4 providers, if included in the plan.

5 **16-41-6. Reporting requirements.**

6 1. On or before the first day of December of each year, the
7 commissioner shall submit a report on the commissioner's findings
8 and recommendations to the governor, the Legislative Oversight
9 Commission on Health and Human Resource Accountability and the
10 ~~joint committee on government and finance~~ Joint Committee on
11 Government and Finance on the Office of Oral Health ~~oral health~~
12 ~~programs~~ established under this article. The report shall include
13 a summary of program accomplishments during the preceding year
14 and the identification of existing barriers to proper oral health
15 care in the state and recommendations addressing the removal of
16 the barriers.

17 ~~§16-41-7. Continuation of the Oral Health Program.~~

18 ~~1. Pursuant to the provisions of article ten, chapter four of~~
19 ~~this code, the Oral Health Program shall continue to exist until~~
20 ~~the first day of July, two thousand seven, unless sooner~~
21 ~~terminated, continued or reestablished.~~

22

Note: The purpose of the bill is to create an Office of Oral Health under the Bureau of Public health and to authorize a full time director.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.



**WEST VIRGINIA LEGISLATURE
STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25305**

EARL RAY TOMBLIN
PRESIDENT OF THE SENATE

RICHARD THOMPSON
SPEAKER OF THE HOUSE

May 22, 2007

Honorable Roman W. Prezioso, Jr.
Co-Chair, Select Committee D
State Capitol
Charleston, West Virginia 25305

Honorable Don Perdue
Co-Chair, Select Committee D
State Capitol
Charleston, West Virginia 25305

Senator Prezioso and Delegate Perdue:

We have approved \$100,000.00 to be paid from the Joint Committee account to hire an experienced consultant to assist the members of Interim Select Committee D in their study of Health Care in West Virginia as set forth in SCR 82. You should work with Legislative Manager Aaron Allred to conduct the search and negotiate the contract with the consultant.

We approve you creating two sub-committees to study and report back to Select Committee D dealing with Certificate of Need and the issue of Oral Hygiene in West Virginia. Please forward us a list of the sub-committee members.

We also approve transferring the HCR 53, Exploring the option to improve school health and healthy lifestyles from Select Committee D to LOCEA.

Finally, we approve transferring HCR 58, studying rebalancing the long-term care system from Sub-Committee D to LOCHHRA since LOCHHRA has previously studied this issue.

Senator Prezioso and Delegate Perdue
May 22, 2007
Page 2

Should you have questions, feel free to contact us.

Sincerely



Earl Ray Tomblin
Senate President/Lt. Governor



Richard Thompson
Speaker of the House

Select Committee E-Broadband

Interim Report to the Joint Committee on Government and Finance
January 7, 2008

Senate Members

Senator Unger, Co-Chair
Senator Bailey
Senator Fanning
Senator Jenkins
Senator Facemyer

House Members

Delegate Browning, Co-Chair
Delegate Boggs
Delegate Campbell
Delegate Craig
Delegate Swartzmiller
Delegate Walters

The Joint Committee on Government and Finance requested Select Committee E- Broadband consider the following bill during the 2007-2008 Interim period:

Senate Bill No. 748, Creating Electronic Telecommunication Open Infrastructure Act

Select Committee E- Broadband met each month during the Interim period to discuss Governor Manchin's *Broadband and Technology Deployment Initiative*, current and future broadband infrastructure, and other areas of broadband technology. The Committee considered testimony from state agencies and other organizations as follows:

West Virginia Office of Technology

Kyle Schafer, Chief Technology Officer, made a presentation to the Committee on Governor Manchin's *Broadband and Technology Deployment Initiative*. Mr. Schafer made many appearances before the Committee discussing the progress his office has made in this initiative.

West Virginia Office of Homeland Security

Jimmy Gianato gave a presentation and an inventory of existing technology infrastructure utilized by the state for homeland security and emergency response.

East End Main Street Program

Mary Alice Hodgson and Mark Weintraub made a presentation on the Charleston East End Wi-Fi project. The project goal is to provide free wireless internet to all residents of that area.

Verizon

John Ruddick and Sam Cipoletti gave a presentation on Verizon's role in Governor Manchin's Broadband and Technology Deployment Initiative.

Berkeley and Jefferson County 911

Jeff Polzinski, Director of Jefferson County 911 services, and Mary Kackley, Director of Berkeley County 911 services, made a presentation on the utility and effectiveness of the state interoperability system as utilized by emergency services in Berkeley and Jefferson Counties.

Cisco Systems, Inc.

Carolyn Purcell and John Goggin of the Internet Business Solutions Group (IBSG) of Cisco Systems Inc. informed the Committee that IBSG is an organization within Cisco Systems Inc. that travels the world and gives consulting advice to governments and corporations on their technological needs.

Ms. Purcell explained to the Committee Cisco Systems Inc.'s role in Governor Manchin's *Broadband and Technology Deployment Initiative*.

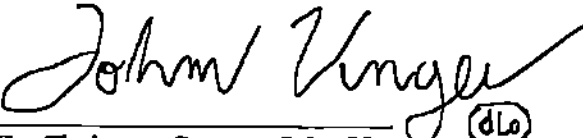
West Virginia Department of Commerce

Kelly Goes, Secretary of Commerce, gave a presentation to the Committee on her office's role in Governor Manchin's *Broadband and Technology Deployment Initiative*.


The Committee considered, but could not take action on the following legislation:

1. Creating the Electronic Open Telecommunication Infrastructure Act;
2. Include broadband projects in infrastructure projects eligible for West Virginia infrastructure funding

Respectfully submitted,



Co-Chairman Senator John Unger



Co-Chairman Delegate Richard Browning

SB/HB (ETOPIA) Abstract 12-10-07
SELECT COMMITTEE E-Broadband

ABSTRACT

COUNSEL : John Reed

SPONSORS: Senators/Delegates

SHORT TITLE: Relating to expanding technology infrastructure to provide broadband internet access throughout the state.

DATE INTRODUCED:

CODE SECTIONS AFFECTED: §5A-6-2 (Amend)

Creates a new article, designated §5B-4-1, §5B-4-2, §5B-4-3, §5B-4-4, §5B-4-5, §5B-4-6, §5B-4-7, §5B-4-8, §5B-4-9, §5B-4-10, §5B-4-11, §5B-4-12, §5B-4-13, §5B-4-14 and §5B-4-15.

§18B-3-2 (Amend)

The primary purpose of this bill is to expand technology infrastructure to provide broadband internet access throughout the state.

The bill amends §5A-6-2, powers and duties of the chief technology officer, to authorize the Chief Technology Officer to establish a surplus computer donation program and to study the recycling of obsolete technology.

The bill creates a new article of the code, §§5B-4-1, et seq., "The Electronic Telecommunication Open Infrastructure Act", (ETOPIA). The Act is in anticipation of making broadband internet access available all over West Virginia. It includes provisions for surveys and mapping of areas that do not currently have broadband access. It is anticipated that a private nonprofit facilitator would work with providers to provide access statewide by the year 2010.

§5B-4-2. This section includes definitions of terms which are used throughout the article.

§5B-4-3. This section sets forth extensive Legislative findings justifying the need for technology infrastructure to provide internet access. It establishes a primary goal of making every municipality, community and rural area of the state accessible to the Internet, through the expansion and extension of broadband services and technology. This goal is to be met by the year 2010.

§5B-4-4. The thrust of this section is to emphasize that a private nonprofit facilitator, in partnership with government and private enterprise, will best enable the implementation of a plan to expand and extend the boundaries of technology-based business and enhance West Virginia future workforce.

§5B-4-5. This section contains legislative findings relating to access to governmental information. It would increase access to resources, services and non-secure information of an agency of government, facilitate communications and transactions between governmental bodies and vendors or contractors to provide richer services to governmental entities, provide high-speed access to be used in situations which will speed up license renewals, provide online employment information and improve overall service levels.

§5B-4-6. This section sets forth findings regarding the application of high-bandwidth connections to make new technologies available to doctors and other health care providers, thereby reducing the disadvantages of physical remoteness from cities, connecting rural health care providers with potentially life-saving information, and enabling consumers to utilize the Internet to search for healthcare information that was previously only available by visiting a healthcare provider.

§5B-4-7. This section contains findings relating to use of the Internet to provide information technology to enhance the state's competitiveness by creating a better understanding of the existing technological infrastructure. It also recognizes the role of information technology in broadband technologies in making education resources available to our citizens even in the most rural parts of West Virginia.

§5B-4-8. This section sets forth findings regarding developing broadband applications to allow internet users to interact with educational programs (e-learning) as well as establishing broadband connections to enable schools to provide interactive programs related to early childhood development as well as developing other broadband applications in the area of early childhood development.

§5B-4-9. This section requires the Secretary of the Department of Administration to develop a method for maintaining accurate information on the state of the technology infrastructure in the state and to conduct an infrastructure resources survey of the deployment and operation of technology infrastructure in this state. The Secretary shall determine the form and format of the information submitted, including the use of electronic submissions and shall propose emergency and legislative rules with regard

thereto. All public bodies are required to participate in the infrastructure resources survey. The Secretary shall file an annual report of the infrastructure to an oversight commission (created in section 11) and to make recommendations on policy and statutory changes that may be needed.

§5B-4-9. Confidential information, including trade secrets and proprietary information, collected as part of the survey is exempt from disclosure to the public other than to authorized state employees. Unlawful disclosure thereof is a misdemeanor. The Governor's Chief Technology is charged with securing and safeguarding confidential information obtained.

§5B-4-11. The Joint Legislative Oversight Commission on Transportation and Infrastructure is created. The Commission is charged with the oversight of transportation and infrastructure matters, including the deployment and operation of infrastructure related to technology. It is to investigate and study all matters related to broadband infrastructure in the state, including:

- expenditure of state funds to provide broadband services;
- the extent of of insufficient income affecting access to broadband;
- maximum use of Federal programs and funds to expand broadband services;
- operation of programs created by this article;
- the role of public, private and nonprofit sectors in providing broadband;
- the feasibility and impact of increased access to broadband by school children in nonschool settings; and
- extending broadband infrastructure into rural areas.

The Commission is given subpoena power for investigative purposes. The Commission shall also submit annual reports to the legislature of its activities and findings.

§5B-4-12. The primary responsibility of Secretary of Commerce is to foster and support economic development and the advancement and commercialization of new and emerging technologies through collaboration agreements between business-industry and the state.

The secretary is given the authority and power to provide consulting and additional services, including, but not limited to, evaluation of technology, verification and assessment of market applications, grant administration for any person engaged in public-private collaborations with the West Virginia development office pertaining to technology advancement and commercialization activities and research into new areas of economic development relating to technology, technology infrastructure, and telecommunications.

The secretary may accept grants to accomplish the objectives of this article, including expanding broadband access into unserved areas. The secretary is also to cooperate with the department of education and the department of health and human resources to coordinate state resources relating to broadband expansion for interactive programs for early childhood development directly into homes of children from birth to age 8.

§5B-4-13. The secretary is required to enhance well-being, prosperity, economic growth and community development through an ongoing study and research into and development of "best known methods" regarding the management practices, human factors and cultural changes related to the implementation, operation and utilization of technology infrastructure, and related services.

Upon completion of the study of best known methods in private industry and public policy, the secretary shall file an initial, preliminary report with the joint legislative oversight commission on transportation and infrastructure no later than the first day of November, two thousand seven.

The secretary shall report annually to the joint oversight commission on transportation and infrastructure to advise the commission about the deployment and operation of technology infrastructure in this state and to make recommendations on policy and statutory changes that may be needed.

§5B-4-14. The Department of Commerce may provide assistance to develop technology infrastructure through a matching grant program. The department shall establish criteria for awarding matching grants within the limits of funds appropriated by the legislature for the program or as may be available from other sources. The department may provide technical assistance, including consulting services for a fee to one or more public bodies. The department is authorized to enter into contractual or joint venture agreements with a one or more persons and public bodies pertaining to the development of technology and technology infrastructure provided such agreements may not be considered a debt of the state or a

pledge of the credit of the state.

§18B-3-2. The higher education computer and computer equipment donation program is expanded to allow all institutions of higher education to establish a computer donation program.

EFFECTIVE DATE: Passage

Comment: Much of this abstract is an edit of an abstract of SB748 prepared by Brenda Thompson, for the House Committee on Government Organization, during the 2007 Regular Session.

1 Senate Bill/House Bill No.

2 (BY SENATOR/DELEGATE)

3 [Introduced ; referred to the
4 Committee on .]

5
6
7
8
9
10 AN ACT to amend and reenact §5A-6-4 the Code of West Virginia,
11 1931, as amended; to amend said code by adding thereto a new
12 article, designated §5B-4-1, §5B-4-2, §5B-4-3, §5B-4-4, §5B-4-
13 5, §5B-4-6, §5B-4-7, §5B-4-8, §5B-4-9, §5B-4-10, §5B-4-11,
14 §5B-4-12, §5B-4-13, §5B-4-14 and §5B-4-15; and to amend and
15 reenact §18B-3-2 of said code, all relating to infrastructure;
16 expanding technology infrastructure to provide broadband
17 internet access throughout the State of West Virginia;
18 donation of surplus computers; authorizing Chief Technology
19 Officer to establish donation program; requiring Chief
20 Technology Officer to consult with and assist higher education
21 institution governing boards in creating a donation program;
22 requiring Chief Technology Officer to study the recycling of
23 obsolete technology; exempting donated computers from certain
24 procedures relating to disposition of surplus property;

1 creating the Electronic Telecommunication Open Infrastructure
2 Act (ETOPIA); providing definitions for terms used in the
3 article; setting forth legislative findings; requiring an
4 inventory and mapping of the current availability of access to
5 broadband communications in this state; developing coordinated
6 deployment and operation of technology infrastructure within
7 this state; providing for technology infrastructure inventory,
8 local government cooperation and inventory survey reporting
9 requirements; authorizing emergency and legislative rules;
10 prescribing the authority of the Secretary of Department of
11 Administration; describing specific authorized disclosures of
12 confidential information; creating Joint Legislative Oversight
13 Commission on Transportation and Infrastructure; providing
14 subpoena powers; providing for enforcement of subpoena power
15 through a court of competent jurisdiction; prescribing the
16 powers and duties of the Secretary of Commerce; establishing
17 reporting requirements; authorizing secretary to provide
18 technical and funding assistance to develop technology
19 infrastructure; authorizing secretary to engage in consulting
20 services for fee; authorizing contractual and joint venture
21 agreements; providing for the liberal construction of article;
22 utilizing broadband infrastructure, technology and information
23 to enhance early childhood development; providing for the
24 confidentiality of trade secrets and proprietary information;

1 providing for criminal penalties for unlawful disclosure of
2 confidential information or data; and expanding number of
3 higher education institutions authorized to create computer
4 and computer equipment donation program.

5 *Be it enacted by the Legislature of West Virginia:*

6 That §5A-6-4 the Code of West Virginia, 1931, as amended, be
7 amended and reenacted; that said code be amended by adding thereto
8 a new article, designated §5B-4-1, §5B-4-2, §5B-4-3, §5B-4-4, §5B-
9 4-5, §5B-4-6, §5B-4-7, §5B-4-8, §5B-4-9, §5B-4-10, §5B-4-11, §5B-4-
10 12, §5B-4-13, §5B-4-14 and §5B-4-15; and that §18B-3-2 of said code
11 be amended and reenacted, all to read as follows:

12 **CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

13 **ARTICLE 6. OFFICE OF TECHNOLOGY.**

14 **§5A-6-4. Powers and duties of the Chief Technology Officer;**
15 **generally.**

16 (a) With respect to all state spending units the Chief
17 Technology Officer may:

18 (1) Develop an organized approach to information resource
19 management for this state;

20 (2) Provide, with the assistance of the Information Services
21 and Communications Division of the Department of Administration,
22 technical assistance to the administrators of the various state
23 spending units in the design and management of information systems;

24 (3) Evaluate, in conjunction with the Information Services and

1 Communications Division, the economic justification, system design
2 and suitability of information equipment and related services, and
3 review and make recommendations on the purchase, lease or
4 acquisition of information equipment and contracts for related
5 services by the state spending units;

6 (4) Develop a mechanism for identifying those instances where
7 systems of paper forms should be replaced by direct use of
8 information equipment and those instances where applicable state or
9 federal standards of accountability demand retention of some paper
10 processes;

11 (5) Develop a mechanism for identifying those instances where
12 information systems should be linked and information shared, while
13 providing for appropriate limitations on access and the security of
14 information;

15 (6) Create new technologies to be used in government, convene
16 conferences and develop incentive packages to encourage the
17 utilization of technology;

18 (7) Engage in any other activities as directed by the
19 Governor;

20 (8) Charge a fee to the state spending units for evaluations
21 performed and technical assistance provided under the provisions of
22 this section. All fees collected by the Chief Technology Officer
23 shall be deposited in a special account in the State Treasury to be
24 known as the Chief Technology Officer Administration Fund.

1 Expenditures from the fund shall be made by the Chief Technology
2 Officer for the purposes set forth in this article and are not
3 authorized from collections but are to be made only in accordance
4 with appropriation by the Legislature and in accordance with the
5 provisions of article three, chapter twelve of this code and upon
6 the fulfillment of the provisions set forth in article two, chapter
7 eleven-b of this code: *Provided*, That the provisions of section
8 eighteen, article two, chapter eleven-b of this code shall not
9 operate to permit expenditures in excess of the spending authority
10 authorized by the Legislature. Amounts collected which are found
11 to exceed the funds needed for purposes set forth in this article
12 may be transferred to other accounts or funds and redesignated for
13 other purposes by appropriation of the Legislature;

14 (9) Monitor trends and advances in information technology and
15 technical infrastructure;

16 (10) Direct the formulation and promulgation of policies,
17 guidelines, standards and specifications for the development and
18 maintenance of information technology and technical infrastructure,
19 including, but not limited to:

20 (A) Standards to support state and local government exchange,
21 acquisition, storage, use, sharing and distribution of electronic
22 information;

23 (B) Standards concerning the development of electronic
24 transactions, including the use of electronic signatures;

1 (C) Standards necessary to support a unified approach to
2 information technology across the totality of state government,
3 thereby assuring that the citizens and businesses of the state
4 receive the greatest possible security, value and convenience from
5 investments made in technology;

6 (D) Guidelines directing the establishment of statewide
7 standards for the efficient exchange of electronic information and
8 technology, including technical infrastructure, between the public
9 and private sectors;

10 (E) Technical and data standards for information technology
11 and related systems to promote efficiency and uniformity;

12 (F) Technical and data standards for the connectivity,
13 priorities and interoperability of technical infrastructure used
14 for homeland security, public safety and health and systems
15 reliability necessary to provide continuity of government
16 operations in times of disaster or emergency for all state, county
17 and local governmental units; and

18 (G) Technical and data standards for the coordinated
19 development of infrastructure related to deployment of electronic
20 government services among state, county and local governmental
21 units;

22 (11) Periodically evaluate the feasibility of subcontracting
23 information technology resources and services, and to subcontract
24 only those resources that are feasible and beneficial to the state;

1 (12) Direct the compilation and maintenance of an inventory of
2 information technology and technical infrastructure of the state,
3 including infrastructure and technology of all state, county and
4 local governmental units, which may include personnel, facilities,
5 equipment, goods and contracts for service, wireless tower
6 facilities, geographic information systems and any technical
7 infrastructure or technology that is used for law enforcement,
8 homeland security or emergency services;

9 (13) Develop job descriptions and qualifications necessary to
10 perform duties related to information technology as outlined in
11 this article; and

12 (14) Promulgate legislative rules, in accordance with the
13 provisions of chapter twenty-nine-a of this code, as may be
14 necessary to standardize and make effective the administration of
15 the provisions of article six of this chapter.

16 (b) With respect to executive agencies, the Chief Technology
17 Officer may:

18 (1) Develop a unified and integrated structure for information
19 systems for all executive agencies;

20 (2) Establish, based on need and opportunity, priorities and
21 time lines for addressing the information technology requirements
22 of the various executive agencies of state government;

23 (3) Exercise authority delegated by the Governor by executive
24 order to overrule and supersede decisions made by the

1 administrators of the various executive agencies of government with
2 respect to the design and management of information systems and the
3 purchase, lease or acquisition of information equipment and
4 contracts for related services;

5 (4) Draw upon staff of other executive agencies for advice and
6 assistance in the formulation and implementation of administrative
7 and operational plans and policies; and

8 (5) Recommend to the Governor transfers of equipment and human
9 resources from any executive agency and the most effective and
10 efficient uses of the fiscal resources of executive agencies, to
11 consolidate or centralize information-processing operations; and

12 (6) Create and implement a program to refurbish and donate
13 state surplus computers which are no more than four years old from
14 state agencies to public schools and to public school children,
15 based on financial need.

16 (A) The Chief Technology Officer is encouraged to collaborate
17 with other agencies including, but not limited to, the State Board
18 of Education; Department of Education Division of Technical and
19 Adult Services; Regional Education Service Agencies; Division of
20 Corrections; Prison Industries; and private technology industries
21 in creating and establishing this program.

22 (B) Surplus computers to be donated pursuant to this
23 subdivision are not subject to the provisions of sections forty-
24 four and forty-five, article three of this chapter.

1 (C) The Chief Technology Officer shall consult with and
2 provide any necessary assistance to any governing board of an
3 institution of higher education creating a computer and computer
4 equipment donation program under section nine, article two-a,
5 chapter eighteen-b of this code.

6 (D) The Chief Technology Officer shall study the feasibility
7 of, and, if feasible, develop an environmentally safe program for
8 the recycling and disposal of computers and computer related
9 equipment that is refurbished and donated pursuant to this section
10 and §18B-3-2 of this code after the equipment has reached the end
11 of its useful life.

12 (c) The Chief Technology Officer may employ the personnel
13 necessary to carry out the work of the Office of Technology and may
14 approve reimbursement of costs incurred by employees to obtain
15 education and training.

16 (d) The Chief Technology Officer shall develop a
17 comprehensive, statewide, four-year strategic information
18 technology and technical infrastructure policy and development plan
19 to be submitted to the Governor and the Joint Committee on
20 Government and Finance. A preliminary plan shall be submitted by
21 the first day of December, two thousand six, and the final plan
22 shall be submitted by the first day of June, two thousand seven.
23 The plan shall include, but not be limited to:

- 24 (A) A discussion of specific projects to implement the plan;
25 (B) A discussion of the acquisition, management and use of
26 information technology by state agencies;

1 (C) A discussion of connectivity, priorities and
2 interoperability of the state's technical infrastructure with the
3 technical infrastructure of political subdivisions and encouraging
4 the coordinated development of facilities and services regarding
5 homeland security, law enforcement and emergency services to
6 provide for the continuity of government operations in times of
7 disaster or emergency;

8 (D) A discussion identifying potential market demand areas in
9 which expanded resources and technical infrastructure may be
10 expected;

11 (E) A discussion of technical infrastructure as it relates to
12 higher education and health;

13 (F) A discussion of the use of public-private partnerships in
14 the development of technical infrastructure and technology
15 services; and

16 (G) A discussion of coordinated initiatives in website
17 architecture and technical infrastructure to modernize and improve
18 government to citizen services, government to business services,
19 government to government relations and internal efficiency and
20 effectiveness of services, including a discussion of common
21 technical data standards and common portals to be utilized by
22 state, county and local governmental units.

23 (e) The Chief Technology Officer shall oversee
24 telecommunications services used by state spending units for the
25 purpose of maximizing efficiency to the fullest possible extent.
26 The Chief Technology Officer shall establish microwave or other

1 networks and LATA hops; audit telecommunications services and
2 usage; recommend and develop strategies for the discontinuance of
3 obsolete or excessive utilization; participate in the renegotiation
4 of telecommunications contracts; and encourage the use of
5 technology and take other actions necessary to provide the greatest
6 value to the state.

7 **RTICLE 4. ELECTRONIC TELECOMMUNICATION OPEN INFRASTRUCTURE ACT.**

8 **§5B-4-1. Short title.**

9 This article may be cited as the Electronic Telecommunication
10 Open Infrastructure Act and may be referred to as ETOPIA.

11 **§5B-4-2. Definitions.**

12 The following terms, wherever used or referred to in this
13 article, shall have the following meanings unless a different
14 meaning clearly appears from the context:

15 (1) "Broadband infrastructure" means all facilities, hardware
16 and software and other intellectual property necessary to provide
17 broadband services in this state, including, but not limited to,
18 voice, video and data.

19 (2) "Broadband services" means the services, including, but
20 not limited to, voice, video and data, that provide capacity for
21 transmission in excess of two hundred kilobits per second in at
22 least one direction, regardless of the technology or medium used,
23 including, but not limited to, wireless, copper wire, fiber-optic
24 cable or coaxial cable.

25 (3) "Commission" means the Joint Legislative Oversight
26 Commission on Transportation and Infrastructure established by the

1 provisions of section eleven of this article.

2 (4) "Department of Commerce" means the department within the
3 executive branch of West Virginia state government established by
4 the provisions of subdivision (8), subsection (a), section two,
5 article one, chapter five-f of this code. It is headed by the
6 Secretary of Commerce, who is appointed by the Governor with the
7 advice and consent of the Senate.

8 (5) "E-business" means "electronic business" and includes any
9 business process that relies on automated information systems that
10 are principally performed with web-based technologies. E-business
11 involves business processes spanning electronic purchasing and
12 supply-chain management, the processing of orders electronically,
13 the handling of customer service and cooperation with business
14 partners. Special technical standards for e-business facilitate
15 the exchange of data between companies. E-business software
16 solutions allow the integration of intrafirm and interfirm business
17 processes. E-business can be conducted using the world wide web
18 (web), the internet, intranets, extranets or a combination of these
19 tools.

20 (6) "E-commerce" means "electronic commerce" or any range of
21 transactions that consists primarily of the distributing, buying,
22 selling, marketing and servicing of products or services over an
23 electronic system such as the internet or other computer networks.
24 The information technology industry may view this activity as an
25 electronic business application aimed at commercial transactions.
26 In this context, e-commerce can involve electronic funds transfer,

1 supply-chain management, e-marketing, online marketing, online
2 transaction processing, electronic data interchange (EDI),
3 automated inventory management systems and automated data
4 collection systems. Electronic commerce typically uses the
5 electronic communications technology of the world wide web at some
6 point in the transaction's lifecycle, although electronic commerce
7 frequently depends on computer technologies other than the world
8 wide web such as databases and e-mail and on other noncomputer
9 technologies such as transportation for physical goods sold via
10 e-commerce.

11 (7) "E-government" means "electronic government" or the use of
12 telecommunications technology to facilitate and provide for access
13 by the public to:

14 (A) Proceedings and operations of government;

15 (B) Records and information regarding the programs and
16 services that are currently implemented or are to be proposed or
17 discontinued by a governmental entity;

18 (C) Any records, not otherwise exempt by law from disclosure,
19 that are kept by governmental entities and that would otherwise be
20 available through nonweb-based means; and

21 (D) Transactions between the government and the public such as
22 a citizen's receipt and return of forms and applications,
23 including, but not limited to, driver's license applications, the
24 payment of fines or penalties or the filing of taxes. "E-
25 government" also includes the use of telecommunications technology
26 to facilitate and provide for exchanges of information between

1 separate governmental entities, whether local, state or federal,
2 and the use of videoconferencing to conduct governmental
3 proceedings with remote participants, including, but not limited
4 to, the establishment of telecourts that adequately provide for the
5 protection of the constitutional rights and privileges of persons
6 involved in civil or criminal litigation, such as arraignments,
7 hearings, conferences, trials and appeals held before such
8 tribunals, and allow for appropriate rulings to be made with
9 dispatch.

10 (8) "E-learning" means "electronic learning" or the use of
11 telecommunications technology to facilitate and provide education,
12 through lectures or other instructional training, as well as
13 providing access to stored knowledge and information and other
14 learning resources. The most common application of e-learning is
15 asynchronous e-learning which uses web-based learning modules but
16 does not support real time interaction between the instructor and
17 the students and other asynchronous functions that typically
18 support the learning environment. Synchronous e-learning requires
19 more bandwidth than asynchronous e-learning and consists
20 principally of online real-time lectures which typically have to be
21 joined by students at the time of their delivery. Most demanding
22 in terms of bandwidth are forms of collaborative e-learning in
23 which students have to interact continuously to solve problems or
24 engage in other learning activities.

25 (9) "Facilitator" or "nonprofit facilitator" means a nonprofit
26 corporation or any other lawfully constituted not-for-profit

1 organization or entity that can:

2 (A) Ally itself with both public and private partners to form
3 a strategic alliance with governmental entities, technology-minded
4 companies, institutions of higher learning and any other public and
5 private entities that support the growth and expansion of
6 electronic access to technology, technology planning, public policy
7 and public relations; and

8 (B) Design a workforce recruitment plan that will necessarily
9 be required to construct and implement the necessary broadband to
10 which this state has committed, i.e., to provide access to the
11 internet for all of the citizens of this state.

12 (10) "Information equipment" includes central processing
13 units, front-end processing units, miniprocessors, microprocessors
14 and related peripheral equipment such as data storage devices,
15 networking equipment, services, routers, document scanners, data
16 entry equipment, terminal controllers, data terminal equipment,
17 computer-based word processing systems other than memory
18 typewriters.

19 (11) "Information systems" means computer-based information
20 equipment and related services designed for the automated
21 transmission, storage, manipulation and retrieval of data by
22 electronic or mechanical means.

23 (12) "Information technology" means data processing and
24 telecommunications hardware, software, services, supplies,
25 personnel, maintenance and training and includes the programs and
26 routines used to employ and control the capabilities of data

1 processing hardware.

2 (13) "Local government" means any municipality, county, metro
3 or regional government, or other political subdivision of the state
4 of West Virginia.

5 (14) "Person" means an individual, corporation, limited or
6 general partnership, joint venture, limited liability company or a
7 government entity, including state authorities, municipalities,
8 counties, police, fire and other public safety organizations,
9 judicial entities, medical entities, schools, colleges,
10 universities, hospitals, libraries, community centers and local
11 economic development entities. Except to the extent that state
12 authorities, police, fire, and other public safety organizations,
13 judicial entities, medical entities, schools, colleges,
14 universities, hospitals and libraries may constitute state
15 entities, "person" does not include the State of West Virginia.

16 (15) "Public body" means a governmental entity or institution
17 and its employees, including, but not limited to, any department,
18 division, agency, bureau, board, commission, court of law in its
19 nonjudicial functions only, council, institution, spending unit,
20 authority or other instrumentality thereof of whatever description
21 of the State of West Virginia, or any county commission, or any
22 county board of education, or any incorporated municipality, metro
23 or regional government or any other political subdivision.

24 (16) "Technology infrastructure" means information systems,
25 information technology, information equipment and facilities,
26 equipment, lines and services designed for or used for the

1 transmission, emission or reception of signs, signals, writings,
2 images or sounds of intelligence of any nature by wire, radio,
3 microwave or other electromagnetic or optical systems, related
4 hardware, software and programming and specifically including, but
5 not limited to, all features, facilities, equipment, systems,
6 functions, programming and capabilities and technical support used
7 by:

8 (A) A cable operator;

9 (B) A commercial mobile service carrier;

10 (C) An open video system operator;

11 (D) A satellite carrier;

12 (E) A telecommunications carrier;

13 (F) Any other wireless carrier, providing current generation
14 broadband services or next generation broadband services to
15 subscribers through such qualified equipment; or

16 (G) Any carrier or operator using any other technology.

17 (17) "Telecommuting" means not only telecommuting, but also
18 includes or is related to "e-commuting", "e-work", "telework" or
19 "working from home" through an arrangement under which the employee
20 enjoys limited flexibility in working location and hours and avoids
21 commuting to a central place of work by utilizing telecommunication
22 links. Telework is a broader term, referring to substituting
23 telecommunications for any form of work-related travel, thereby
24 eliminating the distance restrictions of teleworking. A
25 telecommuting program requires a management style which is based on
26 results and not on close scrutiny of individual employees.

1 (18) "Telemedicine" means the use of telecommunications
2 technology to facilitate and broaden the application of the
3 practice of medicine, thus enabling health care providers to
4 deliver health care services from a distance, including, but not
5 limited to, diagnosis, consultation, treatment, transfer of medical
6 data, use of remote medical instruments and equipment and generally
7 establishing a convenient means of delivering medical services to
8 patients for whom such services might otherwise be unavailable. In
9 addition to clinical applications, telemedicine also includes web-
10 based information and communications technology that can provide
11 education (including continuing education programs) and reduce the
12 administrative costs of health care providers.

13 **§5B-4-3. Legislative findings generally.**

14 The Legislature finds as follows:

15 (1) It is a primary goal of this state, by the year two
16 thousand ten, to make every municipality, community and rural area
17 in this state, border to border, accessible to the internet through
18 the expansion and extension of broadband services and technology.

19 (2) An increased availability of broadband through an advanced
20 technology infrastructure will allow more West Virginians to
21 connect with the "information super-highway" of the internet at
22 high speeds. With current technology infrastructure, West Virginia
23 can feasibly take action to assure that all of its citizens will
24 have access to broadband services through cable television or
25 telephone networks that support two-way communications using cable
26 modems or telephone lines and also by utilizing wireless mobile

1 technologies, satellite transmissions and other means of
2 communication. Ultimately, other means of achieving higher speed
3 connections will be conceived, evolved and made available for use
4 as conduits for the transmission and diffusion of data, information
5 and knowledge. West Virginia must be positioned to be on the edge
6 of each such development.

7 (3) Access to broadband services and the accompanying
8 applications of broadband technology will provide the State of West
9 Virginia with the capacity to foster or support new economic and
10 social opportunities and developments locally, regionally,
11 nationally and internationally.

12 (4) In achieving this primary goal of maximizing internet
13 accessibility, particular concerns of the Legislature and the
14 executive branch of government should be concentrated on and
15 directed toward those of our citizens who are located in rural
16 areas of the state where access appears to be geographically or
17 physically difficult or economically impracticable. An idealized
18 achievement of this primary goal would equalize internet
19 availability to all of our citizens and communities, give them
20 access to the internet regardless of their location, provide them
21 with the knowledge, information and technology available on the
22 internet and expose them to a myriad of other broadband digital
23 applications and services with their attendant benefits.

24 (5) The development of broadband and its diffusion to
25 residential subscribers is still in the early stages and the market
26 is far from mature. The expansion of broadband into unserved areas

1 of the state requires capital investments for financing, for
2 building the appropriate technology infrastructure and for
3 providing the services and applications that can carry high speed
4 data, quality video and voice traffic. Deployment costs are high,
5 particularly in remote and scarcely populated areas. In these
6 circumstances, private operators often do not offer broadband
7 because it is not perceived as profitable to do so. This presents
8 a territorial gap in broadband coverage, with urban households and
9 businesses having ready options and access to broadband while rural
10 population areas may have no options for access.

11 (6) The primary goal of subdivision (1) of this section may be
12 achieved by the legislative and executive branches of state
13 government by:

14 (A) Aggressively expanding and extending broadband and other
15 telecommunications services;

16 (B) Creating incentives for private and nonprofit entities to
17 establish broadband and other telecommunications services;

18 (C) Undertaking telecommunications planning at the local,
19 regional and state levels and requiring that in such planning, that
20 the participants shall include: (i) Citizens and organizations
21 representing and speaking on behalf of the public; (ii) officers
22 of, or spokesmen for, any involved or affected governmental body;
23 and (iii) representatives of various private sectors, including,
24 but not limited to, representatives of industry and commerce,
25 health care and education and research;

26 (D) Removing barriers to the full deployment of broadband

1 digital applications and services and providing incentives for the
2 removal of those barriers; and

3 (E) Removing barriers to public-private partnerships in areas
4 of the state where business entities in the private sector are
5 unable to economically justify capital investments in the
6 technology infrastructure.

7 (7) There is little doubt that rapid growth of the internet is
8 increasingly altering and driving our country in terms of commerce,
9 learning, medicine and other fields so that information technology
10 offers increased economic opportunities, higher living standards,
11 increased health, better education, more individual choices and
12 wider and more meaningful participation in government and public
13 life. The past decade has brought considerable advancement in
14 telecommunications and the way people communicate worldwide.
15 Accordingly, telecommunications in general, and the internet in
16 particular, are becoming increasingly important to the efficient
17 and effective operation of both private and public sector entities.
18 With the advent of the internet and its applications to e-business,
19 e-commerce, e-government, telemedicine, e-learning, telecommuting
20 and media and entertainment, the ability of people in all parts of
21 this state to access the internet has become an important component
22 in the ability of the state and its people and institutions to
23 remain competitive in the information-based global economy.

24 (8) At the same time, however, progress by market forces and
25 industry should be respected and governmental assistance and
26 funding should be focused on areas and persons remaining unserved

1 and not displace accessible and generally competitively priced
2 broadband services in areas already served or where industry is
3 expected to offer accessible and generally competitively priced
4 broadband services by the end of the next following calendar year.

5 **§5B-4-4. Legislative findings related to business, commerce and**
6 **industry.**

7 With regard to the projected impact of internet access on
8 business, commerce and industry, the Legislature finds that there
9 is a need to create and develop a foundation and structure for "e-
10 business" or "electronic business" and for "e-commerce" or
11 "electronic commerce" as defined in section two of this article.

12 (1) That a private nonprofit facilitator, in partnership with
13 government and private enterprise, will best enable the
14 implementation of a legislative plan to expand and extend the
15 boundaries of technology-based business and enhance West Virginia's
16 future workforce;

17 (2) That a broadband alliance formed by a nonprofit
18 facilitator and other entities should be focused on building and
19 sustaining a vital West Virginia economy through job creation and
20 improved business processes, technology, education and advocacy;

21 (3) That a significant part of the mission of a nonprofit
22 facilitator is to promote technology-based economic development for
23 the state by fostering collaboration among the leadership of public
24 and private companies, government agencies and institutions of
25 higher education and that by working with these entities the
26 private nonprofit facilitator will enable the State of West

1 Virginia to create more effective manufacturing processes, improve
2 communications, increase efficiency, expand market opportunities
3 and develop corporate growth strategies;

4 (4) That our modern economy is driven by processes and goods
5 with high technical content and superiority, competitiveness and
6 progress and such an economy relies upon a highly trained technical
7 workforce;

8 (5) That the citizens of West Virginia now live and work in
9 the midst of an economic and cultural environment that connects the
10 world through advanced communications and information technology
11 and, accordingly, progressive policies and the innovative use of
12 technology present the State of West Virginia with an opportunity
13 to thrive in this new environment;

14 (6) That in order to compete and thrive, West Virginia must
15 proactively improve the ability of its citizens and businesses to
16 adopt and use advantageous resources; and

17 (7) That the use of computers, the internet and related
18 technologies advance the development of the skills that fuel a
19 progressive economy and, increasingly, companies will choose
20 locations and hire workers based upon the availability of workers
21 who possess technologically centric skills and resources.

22 **§5B-4-5. Legislative findings related to access to government.**

23 (a) The Legislature finds that access to government
24 information is fundamental to our democratic society. Streamlining
25 state and local government processes through internet-based tools
26 has proven to be a highly effective and cost-efficient way to

1 improve services.

2 (b) E-government can:

3 (1) Permit the resources, services and nonsecure information
4 of an agency of government to be promptly and easily electronically
5 accessed by other governmental entities or by constituents of
6 government, thus allowing those governmental bodies and their
7 constituents to efficiently and economically interact;

8 (2) Facilitate communications and transactions between state
9 and local government bodies with vendors or contractors who provide
10 goods or services to governmental entities or to private programs
11 funded by public moneys;

12 (3) Ensure that West Virginia's governmental officers and
13 employees who deal directly with the public, wherever located in
14 the state, have access to high-speed internet connectivity so that
15 their electronic access will, for example, speed up license
16 renewals, provide online employment information and improve overall
17 service levels.

18 (c) As state and local governments provide an increasing
19 number of services online, the ability to access them through a
20 faster connection becomes paramount. Government, in partnership
21 with an alliance of a private nonprofit facilitator and other
22 entities, must take the lead in developing e-government solutions,
23 in reducing administrative costs and in increasing access to
24 services and the demand for broadband internet applications. As a
25 technology-based resource in those situations where private

1 investment in infrastructure is not available, a public-private
2 partnership with a facilitator can keep government officials
3 apprised of policy issues and build citizen participation through
4 the development of new applications, emergency preparedness
5 information, employment opportunities and links to other valuable
6 governmental resources.

7 §5B-4-6. Legislative findings related to health care or
8 "telemedicine".

9 The Legislature finds as follows:

10 (1) New technologies are enabling doctors to view and send
11 medical images from any location with access to broadband services
12 securely and quickly.

13 (2) Broadband access can reduce the disadvantages of physical
14 remoteness from cities, connecting rural health care providers with
15 potentially life-saving information. In addition, consumers can
16 use the internet to search for health care information that was
17 previously only available by visiting their health care provider.

18 (3) The cost for health care providers to offer services
19 steadily increases, while the amount of revenue remains flat or
20 even decreases. As hospitals and physicians look for ways to lower
21 costs, broadband applications provide efficiencies and cost-saving
22 opportunities. broadband connectivity can improve the quality of
23 services and profits for health care providers where reliability
24 is essential, speed is important and cost is a defining factor.
25 High-bandwidth connections enhance the dependability of web-based

1 mission-critical applications, reducing some of the cost and burden
2 of providing care. Ultimately, improved service levels are the key
3 to quality of life for both patients and physicians.

4 **§5B-4-7. Legislative findings related to e-learning.**

5 The Legislature finds as follows:

6 (1) State, business and education leaders use information
7 obtained through broadband communications in the design of their
8 plans for enhancing West Virginia's competitiveness in the
9 networked world.

10 (2) Access to information technology in West Virginia will
11 enhance the state's competitiveness in the networked world by
12 creating a better understanding of the existing technological
13 infrastructure, the availability of access to that infrastructure
14 and how it is being used today.

15 (3) Education leaders recognize the important role information
16 technology and broadband technologies will play in the long-term
17 success of the state's economy. Through the adoption of new
18 technologies, education resources can be made available to our
19 citizens, even in the most rural parts of West Virginia.

20 **§5B-4-8. Legislative findings related to early childhood
21 development.**

22 The Legislature finds as follows:

23 (1) Developing and utilizing broadband applications that will
24 allow internet users to interact with educational programs
25 (e-learning) and to connect with other online databases, such as

1 e-commerce and telemedicine, will require capital investments and
2 the commitment of other resources, both public and private, in
3 these new and evolving information and communication technologies.

4 (2) Establishing a broadband connection at a local school
5 will enable students to gain access, in the classroom, to the
6 knowledge and resources available on the internet and, through
7 high-speed cable, DSL, wireless or other means, will enable
8 students access outside of the classroom. Broadband infrastructure
9 will enable a school to provide interactive programs that project
10 information and training related to early childhood development
11 directly into the homes and families of children from birth to age
12 eight in the school's community.

13 (3) Mandating that the availability of broadband access is a
14 public or private service for all communities and rural areas in
15 this state requires recognition that the ongoing financial support
16 and resources of governmental and private entities must include the
17 costs of providing such access within their support and funding for
18 education, social services, administration and other services.

19 (4) As efforts to continue developing and providing broadband
20 infrastructure, information technologies and appropriate
21 applications of technologies impact the area of early childhood
22 development, this article should be implemented in cooperation and
23 partnership among the Department of Commerce, the Department of
24 Education and the Department of Health and Human Resources.

25 **§5B-4-9. Technology infrastructure needs assessment, inventory and**

1 mapping; agency and local government cooperation;
2 information gathering; reporting requirements; rule-
3 making authority; and provision of broadband technology
4 to families with children from birth to age eight.

5 (a) The state encourages the coordinated deployment and
6 operation of technology infrastructure for present and future use.
7 Therefore, it is necessary for the state to maintain an ongoing,
8 continually updated record of the nature and extent of its
9 technology infrastructure comprised of information systems,
10 information equipment and information technology, the demands on
11 its technology infrastructure and those governmental entities which
12 use or desire to use the resources of the technology infrastructure
13 providing information services, cable service, advanced services,
14 broadband services, internet, internet protocol enabled services,
15 telecommunications services or similar services or support.

16 (b) The Secretary of the Department of Administration shall
17 develop systems and processes for maintaining accurate information
18 on the state of the technology infrastructure in the state on an
19 ongoing basis and conduct an infrastructure resources survey of the
20 deployment and operation of technology infrastructure in this
21 state. The secretary shall determine the form and format of the
22 information submitted, and the availability of the results of
23 inventory and mapping, including the use of electronic submissions.

24 (c) To facilitate the infrastructure resources survey, the

1 Secretary of the Department of Administration shall propose
2 emergency and legislative rules in accordance with article three,
3 chapter twenty-nine-a of this code. These rules may include:

4 (1) The manner of reporting the technology infrastructure
5 information;

6 (2) Promulgation of a form or forms for reporting purposes;

7 (3) A means of providing training to individuals responsible
8 for the completion and submission of the information on the
9 proposed form;

10 (4) A means of reporting back to individual participating
11 public bodies, from time to time, at the request of a public body,
12 on findings specific to that body to allow the public body to
13 evaluate independently the information provided;

14 (5) A limitation that the information is to be used solely for
15 the purposes of this article;

16 (6) Safeguards to protect the confidential information as
17 provided in section ten of this article;

18 (7) Methodology for collection of information and the analysis
19 of the information;

20 (8) Protocols for an annual update of the infrastructure
21 resources survey including information collection, analysis and
22 reporting thereof by the Department of Administration, and

23 (9) A policy to encourage businesses and to require state and
24 local government agencies to report to the Chief Technology Officer
25 on donations of information technology to educational facilities,

1 nonprofit organizations and members of the public, including
2 without limitation, a description of each item donated and
3 identification of the recipient.

4 (d) Every public body shall complete an infrastructure
5 resources survey no later than the first day of October, two
6 thousand eight, and a survey each year thereafter as provided in
7 rules promulgated pursuant to this section.

8 (e) The secretary shall file annually a report with the Joint
9 Legislative Oversight Commission on Transportation and
10 Infrastructure created in section eleven of this article. The
11 report shall generally advise the Joint Oversight Commission on
12 Transportation and Infrastructure about the deployment and
13 operation of technology infrastructure in this state and to make
14 recommendations on policy and statutory changes that may be needed.
15 The report shall include a discussion of each the following:

16 (1) The connectivity, priorities and interoperability of the
17 technology infrastructure owned, leased or used by public bodies;

18 (2) The technology infrastructure that is owned, leased,
19 operated or used by the public bodies of the state;

20 (3) Technology infrastructure as it affects homeland security,
21 public safety and health, systems reliability and providing
22 continuity of government operations;

23 (4) Technology infrastructure identifying potential market
24 demand areas where expanded resources may be expected;

25 (5) Practices or suggestions to coordinate the development of

1 technology infrastructure and the deployment of services between
2 the public bodies through the coordinated delivery of these
3 systems; and

4 (6) Any other topic that may be beneficial in adequately
5 assessing technology infrastructure.

6 (f) To the extent technology infrastructure information is
7 readily provided by private persons or otherwise available, the
8 secretary shall utilize and incorporate that data to fulfill the
9 reporting requirements of this section.

10 (g) Not later than the first day of December, two thousand
11 eight, the Governor's Chief Technology Officer within the
12 Department of Administration shall submit a report to the
13 Legislature that:

14 (1) Assesses the availability of, and access to, broadband
15 technology in homes and families with children from birth to age
16 eight;

17 (2) Estimates the number of families with children from birth
18 to age eight who are using broadband technology in their homes;

19 (3) Estimates the unmet demand for broadband technology for
20 families with children from birth to age eight; and

21 (4) Sets forth a strategic plan to meet the demand described
22 in subdivision (3) of this subsection.

23 **§5B-4-10. Confidential information; exemption from disclosure.**

24 (a) Information submitted by a public body as part of the
25 survey that may be a trade secret or otherwise confidential shall

1 be identified by that body as confidential information. The public
2 body claiming confidentiality shall provide written justification
3 to the secretary at the time the information is submitted stating
4 the reasons for confidentiality and why the information should not
5 be released.

6 (b) In addition to records or documents that may be considered
7 confidential under this code, confidential information means
8 records, reports or information, or a particular portion or any
9 combination or aggregation thereof, that if made public would
10 present a threat to the safety and security of any system or
11 component relating to the technology infrastructure and related
12 systems.

13 (c) Information designated as confidential and the written
14 justification shall be maintained in a file separate from the
15 general records related to the public body. The confidential
16 information is exempt from disclosure requirements under this code.

17 (d) Information designated as confidential may be released to
18 the Department of Administration, its employees and agents when
19 compiling and analyzing the infrastructure resources survey
20 information and as may be necessary to develop the report required
21 by this article. Any individual receiving information designated
22 confidential shall protect the information as confidential.

23 (e) Trade secrets or proprietary information obtained by the
24 Governor's Chief Technology Officer from broadband providers and
25 other persons or entities through activities related to surveying

1 and mapping broadband access in West Virginia shall be secured and
2 safeguarded by the state. Such information or data shall not be
3 disclosed to the public or to any firm, individual or agency other
4 than officials or authorized employees of this state. Any person
5 who makes any unauthorized disclosure of such confidential
6 information or data is guilty of a misdemeanor and, upon conviction
7 thereof, may be fined not more than five thousand dollars or
8 confined in a correctional facility for not more than one year, or
9 both.

10 (f) The official charged with securing and safeguarding trade
11 secrets and proprietary data is the Governor's Chief Technology
12 Officer, within the Department of Administration, who is authorized
13 to establish and direct appropriate security measures. The
14 Governor shall designate two additional persons to share the
15 responsibility of securing trade secrets or proprietary
16 information. No person is allowed access without written approval
17 of a minimum of two of the three authorized persons specified
18 above.

19 **§5B-4-11. Creation of a Joint Legislative Oversight Commission on**
20 **Transportation and Infrastructure; examination and**
21 **subpoena powers; contempt proceedings; legislative**
22 **reports.**

23 (a) There is hereby created a joint commission of the
24 Legislature known as the Joint Legislative Oversight Commission on

1 Transportation and Infrastructure, which is charged with immediate
2 and ongoing oversight of transportation and infrastructure matters,
3 specifically including, but not limited to, the ongoing oversight
4 of the management and coordination of the deployment and operation
5 of infrastructure related to technology. The commission shall be
6 composed of five members of the Senate appointed by the president
7 of the Senate and five members of the House of Delegates appointed
8 by the speaker of the House of Delegates. No more than four of the
9 five members appointed by the president of the Senate and the
10 speaker of the House of Delegates, respectively, may be members of
11 the same political party. In addition, the president of the Senate
12 and the speaker of the House of Delegates shall designate the
13 cochairpersons. The members shall serve until their successors
14 shall have been appointed as heretofore provided. Members of the
15 commission shall receive such compensation and expenses as provided
16 in article two-a, chapter four of this code. Such expenses and all
17 other expenses including those incurred in the employment of legal,
18 technical, investigative, clerical, stenographic, advisory and
19 other personnel shall be paid from an appropriation to be made
20 expressly for the legislative oversight commission on education
21 accountability, but if no such appropriation be made, such expenses
22 shall be paid from the appropriation under "Account No. 103 for
23 Joint Expenses", but no expense of any kind whatever payable under
24 said account for joint expenses shall be incurred unless first
25 approved by the joint committee on government and finance. The

1 commission shall meet at any time both during sessions of the
2 Legislature and in the interim.

3 (b) The Commission may:

4 (1) Make a continuing investigation, study and review of the
5 practices, policies and procedures utilized to expand broadband
6 infrastructure in this state;

7 (2) Make a continuing investigation, study and review of all
8 matters related to broadband policy in the state;

9 (3) Review program development by the various agencies of
10 state government if those programs impact access to broadband
11 internet;

12 (4) Conduct studies on:

13 (A) The amount of funds expended by state government and by
14 public and private entities in this state for broadband services to
15 persons who are unable to pay for those services;

16 (B) The extent to which persons in this state forego broadband
17 access because of insufficient income and assets to pay for
18 broadband services;

19 (C) The extent to which the state is maximizing available
20 federal programs and moneys in providing and expanding broadband
21 services to the citizens of this state;

22 (D) The operation of the programs and funds created by this
23 article; and

24 (E) The roles of the public, private and private nonprofit
25 sectors in providing broadband services and access to the citizens

1 of this state;

2 (5) Review and study the feasibility and financial impact upon
3 the state of assuring increased access by school children to
4 broadband in their homes, families and other nonschool settings, if
5 available; and

6 (6) Conduct a study on the effects of extending broadband
7 infrastructure into rural areas, including effects on the quality,
8 cost and availability of broadband services.

9 (c) For purposes of carrying out its duties, the commission
10 may examine witnesses and subpoena such persons and books, records,
11 documents, papers or any other tangible things as it believes
12 should be examined to make a complete investigation.

13 (d) All witnesses appearing before the commission under
14 subpoena shall testify under oath or affirmation. Any member of
15 the commission may administer oaths or affirmations to such
16 witnesses.

17 (e) To compel the attendance of witnesses at such hearings or
18 the production of any books, records, documents, papers or any
19 other tangible thing, the commission may issue subpoenas, signed by
20 one of the cochairpersons, in accordance with section five, article
21 one, chapter four of this code. Subpoenas may be served by any
22 person authorized by law to serve and execute legal process and
23 service shall be made without charge. Witnesses subpoenaed to
24 attend hearings shall be allowed the same mileage and per diem as
25 is allowed witnesses before any petit jury in this state.

1 (f) If any person subpoenaed to appear at any hearing refuses
2 to appear or to answer inquiries there propounded, or fails or
3 refuses to produce books, records, documents, papers or any other
4 tangible thing within his control when demanded, the commission
5 shall report the facts to the circuit court of Kanawha County or
6 any other court of competent jurisdiction and the court may compel
7 obedience to the subpoena as though such subpoena had been issued
8 by the court in the first instance.

9 (g) The commission shall submit annual reports to the
10 Legislature, which describe and evaluate in a concise manner:

11 (1) The major activities of agencies of state government and
12 public and private entities involved in expanding the
13 infrastructure of, and access to broadband for the fiscal year
14 immediately past, including important policy decisions reached on
15 initiatives undertaken during that year, especially as such
16 activities, decisions and initiatives relate to:

17 (A) Improving the accessibility of appropriate broadband
18 services in all areas of this state;

19 (B) Improving the ability of the citizens of this state to
20 reasonably afford broadband services.

21 (2) Other information considered by the commission to be
22 important, including recommendations for statutory, fiscal or
23 policy reforms and reasons for such recommendations.

24 (h) The reports may specify in what manner any practice,
25 policy or procedure may or should be modified to satisfy the goal

1 of efficient and effective access to broadband services as they
2 become increasingly available in this state.

3 **§5B-4-12. Powers and duties of the Secretary of Commerce.**

4 (a) The primary responsibility of the secretary is to foster
5 and support economic development and the advancement and
6 commercialization of new and emerging technologies through
7 collaborative agreements between business, industry and the state.

8 (b) The secretary may provide consulting and additional
9 services, including, but not limited to, evaluation of technology,
10 verification and assessment of market applications, grant
11 administration for any person engaged in public-private
12 collaborations with the department pertaining to technology
13 advancement and commercialization activities and research into new
14 areas of economic development relating to technology, technology
15 infrastructure and telecommunications.

16 (c) The secretary may receive and accept from any public body
17 or person or entity of any nature whatsoever grants to be expended
18 in accomplishing the objectives of this article and to receive and
19 accept state appropriations and grants from any public body and
20 from any other source, aid or contributions of either money,
21 property or other things of value to be held, used and applied only
22 for the purposes for which the grants and contributions may be made
23 or collect fees for consulting services rendered to any public
24 body.

25 (d) The secretary may accept and expend any gift, grant,

1 contribution, bequest, endowment or other money for the purposes of
2 this article and to make a maximum effort to encourage external
3 support for programs intended to expand broadband infrastructure
4 into areas of the state not currently served. Any transfer of
5 endowment or other assets to the department shall be formalized in
6 a memorandum of agreement to assure, at a minimum, that any
7 restrictions governing the future disposition of funds are
8 preserved.

9 (e) The Department of Commerce shall cooperate with the
10 Department of Education and the Department of Health and Human
11 Resources to coordinate state resources as they relate to the
12 expansion of broadband technology so as to provide interactive
13 programs that project information and training related to early
14 childhood development directly into the homes and families of
15 children from birth to age eight.

16 (f) The Secretary of Commerce may promulgate rules to fulfill
17 the purposes of this section. These rules are not subject to the
18 provisions of chapter twenty-nine-a of this code, but shall be
19 filed with the Secretary of State.

20 **§5B-4-13. Need for study; reporting requirements; information**
21 **gathering.**

22 (a) The Secretary of Commerce shall enhance well-being,
23 prosperity, economic growth and community development through the
24 ongoing study and research into and development of best known
25 methods regarding the management practices, human factors and

1 cultural changes related to the implementation, operation and
2 utilization of technology, technology infrastructure and related
3 services. For the purposes of this section, "best known methods"
4 refers to plans that outline strategies and activities designed to
5 continue, diversify or expand the economic base of the state as a
6 whole; create jobs; develop a highly capable workforce; enhance
7 productivity; facilitate business access to capital, including
8 venture capital and capital markets; advertise and market the
9 resources offered by the state with respect to the technology needs
10 of business and industry; facilitate cooperation among state
11 government, entrepreneurship efforts, public private partnerships,
12 universities and colleges; and leverage funding from sources other
13 than the state, including federal and private sources.

14 (b) In developing its study, the department shall consider
15 resources and technical support available through other agencies,
16 both public and private, including, but not limited to, the state
17 college and university systems; the West Virginia Housing
18 Development Fund; the Consumer Advocate Office of the Public
19 Service Commission; the West Virginia Economic Development
20 Authority; the West Virginia Parkways, Economic Development and
21 Tourism Authority; the West Virginia Chamber of Commerce; regional
22 planning and development councils; and state appropriations. The
23 Infrastructure and Jobs Development Council, as created by the
24 provisions of section three, article fifteen-a, chapter thirty-one
25 of this code, is also included with the above-named agencies and

1 entities, inasmuch as the broadband infrastructure project or
2 projects to be undertaken under the provisions of this article are
3 within the definition of the term "infrastructure project" as it is
4 defined in section two of said article.

5 (c) Upon completion of a study of best known methods in
6 private industry and public policy, the secretary shall file an
7 initial preliminary report with the Joint Legislative Oversight
8 Commission on Transportation and Infrastructure created in this
9 article no later than the first day of November, two thousand
10 eight. The report shall include consideration of the following:

11 (1) Strategies and activities designed to continue, diversify
12 or expand the resources offered by the state with respect to the
13 technology needs of the state;

14 (2) Strategies to facilitate cooperation among state
15 government, local government, entrepreneurship efforts, public-
16 private partnerships and colleges and universities, with respect to
17 the technology needs of business and industry;

18 (3) Management and utilization of technology infrastructure
19 identifying potential growth areas where expanded resources may be
20 expected;

21 (4) Practices or methods to coordinate development and
22 utilization of technology infrastructure and the deployment of
23 technology infrastructure and related technology between public
24 bodies through the coordinated delivery of these systems; and

25 (5) Any other information that may be beneficial in adequately

1 assessing technology available in determining the need for and the
2 preparation of technology infrastructure plans.

3 (d) The secretary shall report annually to the Joint Oversight
4 Commission on Transportation and Infrastructure to advise the
5 commission about the deployment and operation of technology
6 infrastructure in this state and to make recommendations on policy
7 and statutory changes that may be needed.

8 §5B-4-14. Providing technical and funding assistance to develop
9 technology infrastructure; contractual and joint venture
10 agreements.

11 (a) The Department of Commerce may:

12 (1) Provide assistance, including funding assistance to
13 develop technology infrastructure, and related technology through
14 a matching grant program. The department shall establish criteria
15 for awarding matching grants within the limits of funds
16 appropriated by the Legislature for the program or as may be
17 available from other sources;

18 (2) Provide technical assistance, including consulting
19 services for a fee to one or more public bodies pertaining to the
20 development of technology and technology infrastructure; and

21 (3) Enter into contractual or joint venture agreements with
22 one or more persons and public bodies pertaining to the development
23 of technology and technology infrastructure: *Provided, That such*
24 agreements may not be considered a debt of the state or a pledge of

1 the credit of the state.

2 (b) The powers and authority granted by this article, however,
3 must be focused on technical and funding assistance in those areas
4 remaining unserved and not displace accessible and generally
5 competitively priced broadband services or where industry is
6 expected to offer accessible and generally competitively priced
7 broadband services by the end of the next following calendar year.

8 **§5B-4-15. Complete authority of article; liberal construction.**

9 This article is full and complete authority for carrying out
10 the powers and duties of the same as herein provided. The
11 provisions of this article shall be liberally construed to
12 accomplish its purpose and no procedure or proceedings, notices,
13 consents or approvals are required in connection therewith except
14 as may be prescribed by this article.

15 **CHAPTER 18B. HIGHER EDUCATION.**

16 **ARTICLE 3. ADDITIONAL POWERS AND DUTIES OF RESEARCH, DOCTORAL-**
17 **GRANTING PUBLIC UNIVERSITIES.**

18 **§18B-3-2. Computer and computer equipment donation program.**

19 Notwithstanding any other provision of this code to the
20 contrary, the governing boards are governing board of any state
21 institution of higher education is authorized to create a program
22 to donate surplus computers and computer-related equipment to
23 education facilities, nonprofit organizations, juvenile detention
24 centers, municipal and county public safety offices and other

1 public, charitable or educational enterprises or organizations in
2 this state.

3 (a) Only equipment which otherwise would be transferred to
4 the Surplus Property Unit of the Purchasing Division may be
5 donated;

6 (b) The governing boards governing board of any state
7 institution of higher education choosing to create a donation
8 program pursuant to this section shall keep records and accounts
9 that clearly identify the equipment donated, the age of the
10 equipment, the reasons for declaring it obsolete and the name of
11 the education facility, nonprofit organization, juvenile detention
12 center, municipal or county public safety office or other public,
13 charitable or educational enterprise or organization to which the
14 equipment was donated;

15 (c) Each governing board choosing to create a donation
16 program pursuant to this section shall promulgate a rule in
17 accordance with the provisions of section six, article one of this
18 chapter to implement the donation program. The rules shall specify
19 the procedures to be used for record keeping and shall provide for
20 fair and impartial selection of equipment recipients.

21
22 NOTE: The primary purpose of this bill is to expand
23 technology infrastructure and to provide broadband internet access
24 throughout the State of West Virginia. The bill authorizes the
25 Chief Technology Officer to establish a surplus computer donation
26 program and to study the recycling of obsolete technology.

27 The bill also creates the Electronic Telecommunication Open
28 Infrastructure Act (ETOPA). The act authorizes the Department of

1 Administration to conduct an inventory of the technology
2 infrastructure in the state and to authorize the Department of
3 Commerce to facilitate a public-private partnership or partnerships
4 to expand the broadband infrastructure system and related services
5 to businesses and the public in areas of the state not currently
6 being served.

7 A Joint Legislative Oversight Commission on Transportation
8 and Infrastructure is also created within the act which is charged
9 with immediate and ongoing oversight of transportation and
10 infrastructure matters, specifically including, but not limited to,
11 the ongoing oversight of the management and coordination of the
12 deployment and operation of infrastructure related to technology.

13
14 The higher education computer and computer equipment donation
15 program is expanded to allow all institutions of higher education
16 to establish a computer donation program.

17
Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added. Article[§5B-4-1 et seq.] is new; therefore,
strike-throughs and underscoring are omitted.

HB/SB Infrastructure funds ABST 1-7-08
HOUSE/SENATE COMMITTEE
COUNSEL: John Reed

ABSTRACT

HOUSE/SENATE BILL DRAFT

BY: Delegates/Senators

SHORT TITLE: Relating to including broadband projects in infrastructure projects eligible for funding from West Virginia Infrastructure fund.

DATE INTRODUCED:

CODE REFERENCE: §31-15A-2 and §31-15A-7 (Amend)

PROPOSED LAW:

The purpose of this bill is to specifically include projects for broadband facilities in infrastructure projects that are eligible for funding by the West Virginia infrastructure fund;

§31-15A-2, providing definitions, is amended to include definitions for "broadband services" and "broadband transmission lines". The definition of "Infrastructure Project" is amended to specifically include projects for broadband services facilities, so as to specifically make such projects eligible for funding.

§31-15A-7 provides that the Infrastructure & Jobs Development Council shall advise the commissioner of the division of highways on the feasibility of constructing new water and sewer lines concomitant to the construction of new highways. The council can appoint a local infrastructure planning teams to develop an infrastructure plan for new roads. The section also establishes a infrastructure road improvement road account within the infrastructure fund. This bill amends the section to include the feasibility of including and funding the construction of broadband transmission lines concomitant with the construction of new roads; provides that construction of broadband transmission lines may be funded from the infrastructure road improvement reserve account within the infrastructure fund. The section is amended to remove the \$1 Million limitation upon the amount of funds which may be annually transferred to the account. The bill is further amended to

provide for the transfer and use of the broadband transmission lines after the new road is completed.

TITLE:ok

FISCAL NOTE: None requested

EFFECTIVE DATE: Regular

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H. B.

(By Senator/Delegate)

[Introduced ; referred to the
Committee on .]

A BILL to amend and reenact §31-15A-2 and §31-15A-7 of the Code of West Virginia, 1931, as amended, relating to infrastructure projects funded by the West Virginia infrastructure fund; providing definitions; specifying that infrastructure projects providing broadband services facilities be included in infrastructure projects eligible for funding; including the feasibility of inclusion of broadband transmission lines concomitant with the construction of new roads; providing that construction of broadband transmission lines may be funded from the infrastructure road improvement reserve account within the infrastructure fund; removing the limitation of the amount of funds which may be annually transferred to the account.

Be it enacted by the Legislature of West Virginia:

That §31-15A-2 and §31-15A-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

1 **ARTICLE 15A: WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**
2 **COUNCIL.**

3 **§31-15A-2. Definitions.**

4 For purposes of this article:

5 (a) "Bond" or "infrastructure revenue bond"
6 means a revenue bond, note, or other obligation issued by the
7 water development authority pursuant to this article, including
8 bonds to refund such bonds and notes to renew such notes, and
9 notes in anticipation of and payable from the proceeds of such
10 bonds.

11 (1) "Broadband infrastructure" means all
12 facilities, hardware and software and other intellectual property
13 necessary to provide broadband services in this state, including,
14 but not limited to, voice, video and data.

15 (2) "Broadband services" means
16 telecommunications services capable of transmitting
17 telecommunications, including, but not limited to, voice, video,
18 data and other information in a wide band of frequencies at
19 speeds of at least 200,000 bits per second in both directions;

20 (b) "Broadband transmission lines" means
21 telecommunication equipment lines, regardless of the technology
22 or medium, including but not limited to, copper wire, fiber
23 optic cable or coaxial cable,

24 (b) "Code" means the code of West Virginia, one
25 thousand nine hundred thirty-one, as amended;

1 (c) "Cost" means, as applied to any project to
2 be financed, in whole or in part, with infrastructure revenues or
3 funds otherwise provided pursuant to this article, the cost of
4 planning, acquisition, improvement and construction of the
5 project; the cost of preliminary design and analysis, surveys,
6 borings; the cost of environmental, financial, market and
7 engineering feasibility studies, assessments, applications,
8 approvals, submissions or clearances; the cost of preparation of
9 plans and specifications and other engineering services; the cost
10 of acquisition of all land, rights-of-way, property rights,
11 easements, franchise rights and any other interests required for
12 the acquisition, repair, improvement or construction of the
13 project; the cost of demolishing or removing any buildings or
14 structures on land so acquired, including the cost of acquiring
15 any lands to which buildings or structures may be moved; the cost
16 of excavation, grading, shaping or treatment of earth,
17 demolishing or removing any buildings or structures; the cost of
18 constructing any buildings or other improvements; the cost of all
19 pumps, tanks, vehicles, apparatus and other machinery,
20 furnishings and equipment; loan or origination fees and all
21 finance charges and interest incurred prior to and during the
22 construction and for no more than six months after completion of
23 construction; the cost of all legal services and expenses; the
24 cost of all plans, specifications, surveys and estimates of cost;
25 all working capital and other expenses necessary or incident to

1 determining the feasibility or practicability of acquiring,
2 repairing, improving or constructing any project; the cost of
3 placing any project in operation; and all other costs and
4 expenses of any kind or nature incurred or to be incurred by the
5 project sponsor developing the project that are reasonable and
6 necessary for carrying out all works and undertakings necessary
7 or incident to the accomplishment of any project: *Provided*, That
8 costs shall not include any amounts related to the ongoing
9 operations of the owner or operator, depreciation thereof or any
10 other cost which the council or the water development authority
11 has not determined to be consistent with the purposes and
12 objectives of this article;

13 (d) "Council" means the West Virginia
14 infrastructure and jobs development council created in section
15 three of this article;

16 (e) "Division of environmental protection" means
17 the division of environmental protection established under
18 article one, chapter twenty-two of this code, or any successor to
19 all or any substantial part of its powers and duties;

20 (f) "Division of health" means the division of
21 health created in article one, chapter sixteen of this code, or
22 any successor to all or any substantial part of its powers and
23 duties;

24 (g) "Economic development authority" means the
25 economic development authority established under article fifteen,

1 chapter thirty-one of the code, or any successor to all or any
2 substantial part of its powers and duties;

3 (h) "Emergency project" means a project which
4 the council has determined: (1) Is essential to the immediate
5 economic development of an area of the state; and (2) will not
6 likely be developed in that area if construction of the project
7 is not commenced immediately;

8 (i) "Governmental agency" means any county;
9 municipality; watershed improvement district; assessment
10 district; soil conservation district; sanitary district; public
11 service district; drainage district; regional governmental
12 authority and any other state governmental agency, entity,
13 political subdivision or public corporation or agency authorized
14 to acquire, construct or operate water or wastewater facilities
15 or infrastructure projects;

16 (j) "Housing development fund" means the West
17 Virginia housing development fund established under article
18 eighteen of this chapter, or any successor to all or any
19 substantial part of its powers and duties;

20 (k) "Infrastructure fund" means the West
21 Virginia infrastructure fund created and established in section
22 nine of this article;

23 (l) "Infrastructure project" means a project in
24 the state which the council determines is likely to foster and
25 enhance economic growth and development in the area of the state

1 in which the project is developed, for commercial, industrial,
2 community improvement or preservation or other proper purposes,
3 including, without limitation, tourism and recreational housing,
4 land, air or water transportation facilities and bridges,
5 industrial or commercial projects and facilities, mail order,
6 warehouses, wholesale and retail sales facilities, broadband
7 services facilities and other real and personal properties,
8 including facilities owned or leased by this state or any other
9 project sponsor, and includes, without limitation: (1) The
10 process of acquiring, holding, operating, planning, financing,
11 demolition, construction, improving, expanding, renovation,
12 leasing or otherwise disposing of the project or any part thereof
13 or interest therein; and (2) preparing land for construction and
14 making, installing or constructing improvements on the land,
15 including water or wastewater facilities or any part thereof,
16 steam, gas, telephone and telecommunications and electric lines
17 and installations, broadband transmission lines, roads, bridges,
18 railroad spurs, buildings, docking and shipping facilities,
19 curbs, gutters, sidewalks, and drainage and flood control
20 facilities, whether on or off the site;

21 (m) "Infrastructure revenue" means all amounts
22 appropriated by the legislature; all amounts deposited into the
23 infrastructure fund; any amounts received, directly or
24 indirectly, from any source for the use of all or any part of any
25 project completed pursuant to this article; and any other amounts

1 received by the state treasurer, council or the water development
2 authority for the purposes of this article;

3 (n) "Need of the project sponsors" means there
4 is a public need for a project. The council shall construe a
5 population increase evidenced by the last two decennial censuses
6 in a county in which a project is proposed, as a factor
7 supporting the conclusion that a need exists for projects in that
8 county.

9 (o) "Project" means any wastewater facility,
10 water facility project or any combination thereof, constructed or
11 operated or to be constructed or operated by a project sponsor;

12 (p) "Project sponsor" means any governmental
13 agency or person, or any combination thereof, including, but not
14 limited to, any public utility, which intends to plan, acquire,
15 construct, improve or otherwise develop a project;

16 (q) "Public service commission" means the public
17 service commission of West Virginia created and established under
18 section three, article one, chapter twenty-four of this code, or
19 any successor to all or any substantial part of its powers and
20 duties;

21 (r) "Person" means any individual, corporation,
22 partnership, association, limited liability company or any other
23 form of business organization;

24 (s) "Public utility" means any person or
25 persons, or association of persons, however associated, whether

1 incorporated or not, including, without limitation, any
2 governmental agency, operating a wastewater facility or water
3 facility as a public service, which is regulated by the public
4 service commission as a public utility under chapter twenty-four
5 of this code or which is required to file its tariff with the
6 public service commission;

7 (t) "State development office" means the West
8 Virginia development office established under article two,
9 chapter five-b of this code, or any successor to all or any
10 substantial part of its powers and duties;

11 (u) "State infrastructure agency" means the
12 division of health, division of environmental protection, housing
13 development fund, public service commission, state development
14 office, water development authority, economic development
15 authority and any other state agency, division, body, authority,
16 commission, instrumentality or entity which now or in the future
17 receives applications for the funding of, and provides funding or
18 technical assistance to, the planning, acquisition, construction
19 or improvement of a project;

20 (v) "Wastewater facility" means all facilities,
21 land and equipment used for or in connection with treating,
22 neutralizing, disposing of, stabilizing, cooling, segregating or
23 holding wastewater, including, without limitation, facilities for
24 the treatment and disposal of sewage, industrial wastes or other
25 wastes, wastewater, and the residue thereof; facilities for the

1 temporary or permanent impoundment of wastewater, both surface
2 and underground; and sanitary sewers or other collection systems,
3 whether on the surface or underground, designed to transport
4 wastewater together with the equipment and furnishings therefor
5 or thereof and their appurtenances and systems, whether on the
6 surface or underground including force mains and pumping
7 facilities therefor;

8 (w) "Water development authority" means the West
9 Virginia water development authority continued pursuant to the
10 provisions of article one, chapter twenty-two-c of this code, or
11 any successor to all or any substantial part of its powers and
12 duties; and

13 (x) "Water facility" means all facilities, land
14 and equipment used for or in connection with the collection
15 and/or storage of water, both surface and underground,
16 transportation of water, storage of water, treatment of water and
17 distribution of water all for the purpose of providing potable,
18 sanitary water suitable for human consumption and use.

19 **31-15A-7. Current and prospective planning; roads and highways;**
20 **report to division of highways.**

21 (a) The council shall take into account the current and
22 prospective infrastructure needs in relation to plans of the
23 division of highways for the development and building of new
24 roads. Upon completion of an environmental impact study, the
25 commissioner of highways shall provide the council with plans for

1 any and all new roads. In a timely manner, the council shall
2 advise the commissioner of the division of highways on the
3 feasibility of the expansion of new or existing water and sewer
4 lines and broadband transmission lines concomitant to the
5 construction of the new roads.

6 (b) The council has the authority to appoint local
7 infrastructure planning teams. The local infrastructure planning
8 teams may consist of the following: A designee of the division
9 of highways from the region where the new road is being built; a
10 designee of the division of highways from the central state
11 office; a designee from the environmental engineers division of
12 the department of health and human resources; a designee from the
13 local developmental authority where the new road is being built;
14 a designee from the regional developmental authority in the area
15 where the new road is being built; a designee from the public
16 service commission; a designee from the division of environmental
17 protection; a designee from the county commission where the new
18 road is being built who shall serve as chairperson of the
19 planning team; a citizen of the county where the new road is
20 being built to be chosen by the county commission; and the
21 elected state delegates and senators from the area where the new
22 road is being built. In order to avoid delay of any highway
23 project, immediately upon appointment of a local infrastructure
24 planning team, the director of the division of highways shall
25 submit to the council a time frame within which the planning team

1 must act and within which the planning team must submit any
2 plans, maps, recommendations or reports developed pursuant to
3 this subsection. The local infrastructure planning team shall
4 meet prior to the development and building of a new road.
5 Members of the local infrastructure planning team shall only
6 receive payment for actual expenses incurred. The local
7 infrastructure planning team shall advise the commissioner of the
8 division of highways on the feasibility of an infrastructure
9 plan. The local infrastructure planning team shall meet to
10 develop an infrastructure plan that includes an assessment study
11 of existing water and sewer lines and a feasibility study on
12 future development and laying of water and sewer lines and
13 broadband transmission lines. After these studies are completed,
14 a developmental map shall be drawn of the proposed road route
15 with overlays of the proposed water and sewer lines and any
16 proposed broadband transmission lines. These studies and the map
17 shall be presented to the commissioner of the division of
18 highways and shall be used by the commissioner in the planning,
19 developing and building of the road.

20 (c) The water development authority shall establish a
21 restricted account within the infrastructure fund to be expended
22 for the construction of water and sewage lines and broadband
23 transmission lines as may be recommended by the council in
24 accordance with this article and specifically, in accordance with
25 the plan developed under subsection (b) of this section. The

1 reserve account shall be known as the "infrastructure road
2 improvement reserve account". The council and the division of
3 highways may enter into agreements to share the cost of financing
4 projects approved in accordance with this section from moneys
5 available in the infrastructure road reserve account and moneys
6 available from the state road fund. Annually, the council may
7 direct the water development authority to transfer funds from the
8 infrastructure fund ~~in an amount not to exceed one million~~
9 ~~dollars to the restricted account. Provided, That at no time may~~
10 ~~the balance of the restricted account exceed one million dollars.~~

11 (d) For the purposes of this section the term "new" means a
12 road right-of-way being built for the first time.

13 (e) After the construction of water and sewer lines adjacent
14 to the new road, these new lines shall be turned over to existing
15 utilities by expansion of boundaries of public service districts
16 or shall be main extensions from the municipality.

17 (f) After the construction of any new broadband transmission
18 lines in the new road right-of-way, the lines may be turned over
19 to broadband service providers. The council shall promulgate
20 legislative rules in accordance with article three, chapter
21 twenty-nine-a of this code to provide for the transfer of
22 ownership of the new lines to broadband service providers and for
23 the equitable right to the use of the new lines by all broadband
24 service providers, subject to such appropriate limitations and
25 restrictions as the council may determine.

Note: The purpose of this bill is to specify that infrastructure projects providing broadband services facilities be included in infrastructure projects eligible for funding from the West Virginia Infrastructure Fund. The bill also provides for including the feasibility of inclusion of broadband transmission lines concomitant with the construction of new roads and that construction of broadband transmission lines may be funded from the infrastructure road improvement reserve account within the infrastructure fund. The bill also removes the limitation of the amount of funds which may be annually transferred to the account.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

WEST VIRGINIA LEGISLATURE

LEGISLATIVE OVERSIGHT COMMISSION ON WORKFORCE INVESTMENT FOR ECONOMIC DEVELOPMENT

2007- 2008 Interims

SENATE MEMBERS

Brooks McCabe, Chair
Senator Jeffrey V. Kessler
Senator Ron Stollings
Senator Vic Sprouse

HOUSE MEMBERS

Delegate Kenneth Tucker, Chair
Delegate Orphy Klempa
Delegate Douglas K. Stalnaker
Delegate Bill Hamilton
Delegate Craig Blair, (nonvoting)

Delegate Brent Boggs - *ex officio*
Delegate Bonnie Brown - *ex officio*
Delegate Larry Border - *ex officio*

Final Report of

LEGISLATIVE OVERSIGHT COMMISSION ON WORKFORCE INVESTMENT FOR ECONOMIC DEVELOPMENT

The Legislative Oversight Commission on Workforce Investment for Economic Development was appointed pursuant to the provisions of West Virginia Code §5B-2B-7, *et seq*, following the 2007 Regular Session of the 78th Legislature. Pursuant to their statutory charge the Commission was to make a continued investigation, study and review of the practices, policies and procedures of the workforce investment strategies and programs implemented in the state.

During the course of the 2007 - 2008 interim period the Legislative Oversight Commission on Workforce Investment for Economic Development met and received information on these practices, policies and procedures and other important issues from state agencies, political subdivisions, advocacy groups and other pertinent sources. The Commission **REPORTS** as follows:

Counsel to the Commissioner presented an overview at the initial Commission meeting of the Commission's statutory charge so they were fully aware of their mission. To meet this obligation, the Commission heard at various times throughout the year from Ron Radcliff, the Director of WorkForce West Virginia. Mr. Radcliff provided a financial overview of WorkForce West Virginia. Specifically he responded to inquiries from the Commission regarding press

reports that Region II was in particular financial disarray. Mr. Radcliff also provided the Commission with insight into the operation of Region VII which was undergoing an internal struggle. Pursuant to press reports regarding potential office closings, Mr. Radcliff also informed the Commission of the agencies plans in this regard. Finally, the Commission requested information from Mr. Radcliff regarding a data interface to better track PROMISE Scholarship recipients. At various times, the Commission also heard from Executive Director's of the regional Workforce Investment Boards.

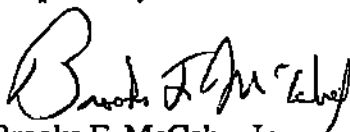
The Commission also heard from Cabinet Secretary, Kelly Goes, Department of Commerce. Secretary Goes reported on a recent audit conducted on WorkForce West Virginia. The audit recommended greater control by the State of local WorkForce Investment Board (WIB) money. Current practice provided no oversight or responsibility.

The Commission also received updates from Jim Skidmore, Chancellor of Community and Technical College Education.

A great deal of time during 2007-2008 was spent on Region VII. During the September interims in Martinsburg, the Commission met with representatives of Region VII at the local WorkForce West Virginia Office. They expressed concerns over the growing schism in the region between the three (3) eastern most counties and the remainder of the region. During the October meeting this discussion continued as the Chair of the Region VII WorkForce Investment Board and the Chief Local Elected Official addressed the Commission over the growing problem.

The Commission **RECOMMENDS** that the situation in Region VII continue to be monitored and that, if possible, a discussion with the Governor regarding potential solutions to alleviate the situation.

Respectfully submitted



Brooks F. McCabe, Jr.
Senate Chair



Kenneth Tucker
House Chair

West Virginia Legislature
Joint Standing Committee on Finance
2007 - 2008 Interims

Senate Members

Senator Helmick, Chair
Senator Sharpe, Vice-Chair
Senator Bailey
Senator Bowman
Senator Chafin
Senator Edgell
Senator Fanning
Senator Love
Senator McCabe
Senator Plymale
Senator Prezioso
Senator Unger
Senator Boley
Senator Facemyer
Senator Guills
Senator Sprouse
Senator Sypolt

House Members

Delegate White, Chair
Delegate Boggs, Vice-Chair
Delegate Barker
Delegate Campbell
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Delegate Doyle
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Delegate Manchin
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Delegate Reynolds
Delegate Spencer
Delegate Stalmaker
Delegate Tucker
Delegate Yost
Delegate Anderson
Delegate Ashley
Delegate Blair
Delegate Border
Delegate Carmichael
Delegate Evans
Delegates Walters

FINAL REPORT OF

THE JOINT STANDING COMMITTEE ON FINANCE

TO THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE

January 8, 2008

Your Joint Standing Committee on Finance was assigned the interim study of the following topics during the 2007-2008 legislative interim period:

- ***HCR 70- Requesting the Joint Committee on Government and Finance to study the necessity for additional public defender corporations for the delivery of indigent defense services.***

- *HCR 89- Requesting that the Joint Committee on Government and Finance authorize the study of a monetary incentive program to recruit and retain qualified workers to critically understaffed classifications.*
- *SB 459 & HB 2280 - Relating to providing that correctional officers may retire with full benefits after 20 years of service.*
- *Tax Issues Generally*
- *HCR 50 (Study of the Soft Drink Tax)*
- *HCR 87 (Study of insurance coverage on public buildings and property)*
- *Long term funding of the Special Reclamation fund and the creation of a Water Trust Fund*
- *HCR 62 Requesting the Joint Committee on Government and Finance study large land holdings, county by county, to determine the value taxation of deed holders of lands in excess of 1,000 acres.*
- *GASB Implementation generally*

Your Committee reports that it has received and adopted the reports and recommendations of its subcommittees on those matters. All of those reports and recommendations are submitted with this report to the Joint Committee on Government and Finance for its consideration.

Respectfully Submitted,



Senator Walt Helmick
Co-Chairman



Delegate Harry Keith White
Co-Chairman

**West Virginia Legislature
Joint Standing Committee on Finance
2007 - 2008 Interims
Subcommittee A**

Senate Members:

Senator Ed Bowman, Chair
Senator Roman Prezioso
Senator John Unger
Senator Karen Facemyer
Senator Jesse Guills
Senator Walt Helmick, *Ex Officio*

House Members:

Delegate Brent Boggs, Chair
Delegate Larry Barker
Delegate Craig Blair
Delegate Richard Iaquina
Delegate Don Perdue
Delegate Doug Reynolds
Delegate Bob Ashley
Delegate Larry Border
Delegate Harry Keith White, *Ex Officio*

FINAL REPORT OF

SUBCOMMITTEE A

**TO THE JOINT STANDING COMMITTEE ON FINANCE
January 6, 2008**

Your Subcommittee A was appointed following the 2007 Regular Session of the 78th Legislature and assigned the following topics for study during the interim period:

HCR 70 - Requesting the Joint Committee on Government and Finance to study the necessity for additional public defender corporations for the delivery of indigent defense services,

HCR 89 - Requesting the Joint Committee on Government and Finance authorize the study of a monetary incentive program to recruit and retain qualified workers to critically understaffed classification,

SB 459 & HB 2280 - Relating to providing that correctional officers may retire with full benefits after 20 years of service.

During the 2007-2008 legislative interim period, Subcommittee A met and received information on these topics of study from state agencies and other sources. Subcommittee A **REPORTS** as follows:

On the issue of the necessity for additional public defender corporations, the committee heard from representatives from the West Virginia Public Defender Services, the Department of Administration, William Summers and Joshua P. Strum, Attorneys and Nancy Stephens of Tri-S Investigations.

Your Subcommittee **RECOMMENDS** that the Legislature support legislation that provides a time limit on submission of claims.

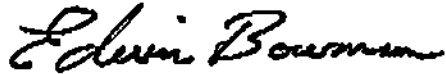
Your Subcommittee A **DOES NOT RECOMMEND** that the Legislature continue to study the issue of public defenders .

On the issue of allowing correctional officers full retirement after 20 years of service, a motion was made during the interims to not fully study this issue until a fiscal note could be provided. No fiscal note has been provided at this time. Subcommittee A **DOES NOT RECOMMEND** that the legislature continue to study this issue since a fiscal note will be required during the session if the issue is forthcoming.

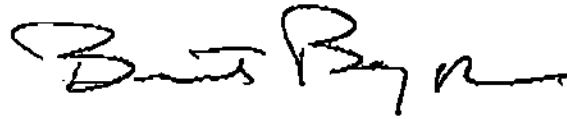
On the issue of a monetary incentive program to recruit and retain qualified workers to critically understaffed classifications, The Division of Personnel reported that no program had yet requested the monetary incentive since it is such a new program and that they were working with a consultant to further establish ways to improve recruitment and retention of employees. The Joint Standing Committee on Finance, Subcommittee A **RECOMMENDS** that this issue be continued

next year to give the committee an opportunity to more fully review the consultants recommendations and any useage by programs to provide a monetary incentive.

Respectfully Submitted,



Senator Edwin Bowman
Co-Chair



Delegate Brent Boggs
Vice-Chair

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Bill No.

(By _____)

[Originating in the Committee on Finance, Subcommittee A;
2007.]

9 A BILL to amend and reenact §29-21-13a of the Code of West
10 Virginia, 1931, as amended; relating to Public Defender
11 Services generally; clarifying panel attorney compensation and
12 expenses; and providing a limit on submission of claims.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §29-21-13a of the Code of West Virginia, 1931, as
15 amended, be amended and reenacted, to read as follows:

16 **ARTICLE 21. PUBLIC DEFENDER SERVICES.**

17 **§29-21-13a. Compensation and expenses for panel attorneys.**

18 (a) All panel attorneys shall maintain detailed and accurate
19 records of the time expended and expenses incurred on behalf of
20 eligible clients, and upon completion of each case, exclusive of
21 appeal, shall submit to the appointing court a voucher for
22 services. Claims for fees and expense reimbursements shall be
23 submitted to the appointing court on forms approved by the
24 executive director. Claims submitted more than ~~four years~~ ninety
25 days after the last date of service shall be rejected beginning

1 with all cases completed after the last day of June, two thousand
2 eight.

3 The appointing court shall review the voucher to determine if
4 the time and expense claims are reasonable, necessary and valid,
5 and shall forward the voucher to the agency with an order approving
6 payment of the claimed amount or of a lesser sum the court
7 considers appropriate.

8 (b) Notwithstanding any other provision of this section to the
9 contrary, public defender services may pay by direct bill, prior to
10 the completion of the case, litigation expenses incurred by
11 attorneys appointed under this article.

12 (c) Notwithstanding any other provision of this section to the
13 contrary, a panel attorney may be compensated for services rendered
14 and reimbursed for expenses incurred prior to the completion of the
15 case where: (1) More than six months have expired since the
16 commencement of the panel attorney's representation in the case;
17 and (2) no prior payment of attorney fees has been made to the
18 panel attorney by public defender services during the case. The
19 amounts of any fees or expenses paid to the panel attorney on an
20 interim basis, when combined with any amounts paid to the panel
21 attorney at the conclusion of the case, shall not exceed the
22 limitations on fees and expenses imposed by this section.

23 (d) In each case in which a panel attorney provides legal
24 representation under this article, and in each appeal after
25 conviction in circuit court, the panel attorney shall be
26 compensated at the following rates for actual and necessary time

1 expended for services performed and expenses incurred subsequent to
2 the effective date of this article:

3 (1) For attorney's work performed out of court, compensation
4 shall be at the rate of forty-five dollars per hour. For
5 paralegal's work performed out of court for the attorney,
6 compensation shall be at the rate of the paralegal's regular
7 compensation on an hourly basis or, if salaried, at the hourly rate
8 of compensation which would produce the paralegal's current salary,
9 but in no event shall the compensation exceed twenty dollars per
10 hour. Out-of-court work includes, but is not limited to, travel,
11 interviews of clients or witnesses, preparation of pleadings and
12 prehearing or pretrial research.

13 (2) For attorney's work performed in court, compensation shall
14 be at the rate of sixty-five dollars per hour. No compensation for
15 paralegal's work performed in court shall be allowed. In-court
16 work includes, but is not limited to, all time spent awaiting
17 hearing or trial ~~if the presence of the attorney is required before~~
18 a judge, magistrate, special master or other judicial officer.

19 (3) The maximum amount of compensation for out-of-court and
20 in-court work under this subsection is as follows: For proceedings
21 of any kind involving felonies for which a penalty of life
22 imprisonment may be imposed, the amount as the court may approve;
23 for all other eligible proceedings, three thousand dollars unless
24 the court, for good cause shown, approves payment of a larger sum.

25 (e) Actual and necessary expenses incurred in providing legal
26 representation for proceedings of any kind involving felonies for

1 which a penalty of life imprisonment may be imposed, including, but
2 not limited to, expenses for travel, transcripts, salaried or
3 contracted investigative services and expert witnesses, shall be
4 reimbursed in an amount as the court may approve. For all other
5 eligible proceedings, actual and necessary expenses incurred in
6 providing legal representation, including, but not limited to,
7 expenses for travel, transcripts, salaried or contracted
8 investigative services and expert witnesses, shall be reimbursed to
9 a maximum of ~~fifteen hundred~~ one thousand five hundred dollars
10 unless the court, for good cause shown, approves reimbursement of
11 a larger sum.

12 Expense vouchers shall specifically set forth the nature,
13 amount and purpose of expenses incurred and shall provide receipts,
14 invoices or other documentation required by the executive director
15 and the State Auditor:

16 (1) (A) Reimbursement of expenses for production of
17 transcripts of proceedings reported by a court reporter is limited
18 to the cost per original page and per copy page as set forth in
19 section four, article seven, chapter fifty-one of this code.
20 ~~Reimbursement of the cost of copies of such transcripts is limited~~
21 ~~to the cost per copy page as provided for under said section. It~~
22 ~~is the duty of the executive director of public defender services~~
23 ~~to maintain computer records of all transcripts, including~~
24 ~~originals and copies, for which payment has been made.~~

25 (B) (1) There shall be no reimbursement of expenses for or
26 production of a transcript of a preliminary hearing before a

1 magistrate or juvenile referee, or of a magistrate court jury
2 trial, which has been reported by a court reporter at the request
3 of the attorney, where the preliminary such hearing or jury trial
4 has also been recorded electronically in accordance with the
5 provisions of section eight, article five, chapter fifty of this
6 code or court rule.

7 (ii) Reimbursement of the expense of an appearance fee for a
8 court reporter who reports a proceeding other than one described in
9 subparagraph (i) of this paragraph ~~or who reports a proceeding~~
10 ~~which is not reported by an official court reporter acting in his~~
11 ~~or her official capacity for the court,~~ is limited to twenty-five
12 dollars. Where a transcript of a proceeding is produced, there
13 shall be no reimbursement for the expense of any appearance fee.
14 ~~Where a transcript is requested by the attorney after an appearance~~
15 ~~fee has been paid, reimbursement of the expense incurred to obtain~~
16 ~~the transcript is limited to the cost of producing the transcript,~~
17 ~~within the prescribed limitations of paragraph (a) of this~~
18 ~~subdivision, less the amount of the paid appearance fee.~~

19 (iii) ~~Reimbursement of travel expenses incurred for travel by~~
20 ~~a court reporter is subject to the limitations provided by~~
21 ~~subdivision (2) of this subsection:~~

22 (iv) Except for the appearance fees provided in this
23 paragraph, there shall be no reimbursement for hourly court
24 reporters' fees or fees for other time expended by the court
25 reporter, either at the proceeding or traveling to or from the
26 proceeding.

1 (C) Reimbursement of the cost of transcription of tapes
2 electronically recorded during preliminary hearings or magistrate
3 court jury trials is limited to the rates established by the
4 ~~supreme court of appeals for the reimbursement of transcriptions of~~
5 ~~electronically recorded hearings and trial~~ one dollar per page.

6 (2) Reimbursement for any travel expense incurred in an
7 eligible proceeding is limited to the rates for the reimbursement
8 of travel expenses established by rules promulgated by the Governor
9 pursuant to the provisions of section eleven, article eight,
10 chapter twelve of this code and administered by the Secretary of
11 the Department of Administration pursuant to the provisions of
12 section forty-eight, article three, chapter five-a of this code.

13 (3) Reimbursement for investigative services is limited to a
14 rate of thirty dollars per hour for work performed by an
15 investigator.

16 (f) For purposes of compensation under this section, an appeal
17 from a final order of the circuit court or a proceeding seeking an
18 extraordinary remedy made to the Supreme Court of Appeals shall be
19 considered a separate case.

20 (g) Vouchers submitted under this section shall specifically
21 set forth the nature of the service rendered, the stage of
22 proceeding or type of hearing involved, the date and place the
23 service was rendered and the amount of time expended in each
24 instance. All time claimed on the vouchers shall be itemized to
25 the nearest tenth of an hour. If the charge against the eligible
26 client for which services were rendered is one of several charges

1 involving multiple warrants or indictments, the voucher shall
2 indicate the fact and sufficiently identify the several charges so
3 as to enable the court to avoid a duplication of compensation for
4 services rendered. The executive director shall refuse to
5 requisition payment for any voucher which is not in conformity with
6 the recordkeeping, compensation or other provisions of this article
7 and in such circumstance shall return the voucher to the court or
8 to the service provider for further review or correction.

(NOTE: The purpose of the bill is to modify the time frame
for submitted claims for reimbursement.)

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.)

West Virginia Legislature
Joint Standing Committee on Finance
2007 - 2008 Interims
Subcommittee B

Senate Members:

Senator Walt Helmick, *Chair*
Senator Jon Pat Farming
Senator Brooks McCabe
Senator Bob Plymale
Senator Bill Sharpe
Senator Donna Boley
Senator Vic Sprouse

House Members:

Delegate Tom Campbell, *Chair*
Delegate John Doyle
Delegate Charlene Marshall
Delegate Sharon Spencer
Delegate Kenneth Tucker
Delegate Mitch Carmichael
Delegate Allen Evans
Delegate Kevin Craig
Delegate Harry Keith White, *Ex Officio*

FINAL REPORT OF
SUBCOMMITTEE B

TO THE JOINT STANDING COMMITTEE ON FINANCE
January 8, 2008

Your Subcommittee B was appointed following the 2007 Regular Session of the 78th Legislature and assigned the following topics for study during the interim period:

Topic 1: Insurance coverage on public buildings and property generally

Topic 2: Tax issues generally

Topic 3: Evaluation of long-term funding for the Special Reclamation Fund and creation of a Water Trust Fund

Topic 4: HCR 50 - Requesting the Joint Committee on Government and Finance study the soft drink tax

During the 2007-2008 legislative interim period, Subcommittee B met and received information on these topics of study from state agencies, political subdivisions and other sources.

Subcommittee B REPORTS as follows:

On **TOPIC 1: Insurance coverage on public buildings and property generally**, the Subcommittee received information on the extent of property insurance coverage on the Morgan County Courthouse when it burned on August 8, 2006, and more broadly, information on the recent property and liability self-insurance pool formed July 1, 2007, by 20 counties in West Virginia pursuant to legislative authorization (§29-12A-16, §114 CSR 65). The Subcommittee also received information on the incidental effect the pool's formation has had on private sector insurance providers and on the state provider, the West Virginia Board of Risk and Insurance Management (BRIM), which had previously provided this insurance for many of those counties. The Subcommittee further received information on the benefits of participation in the pool anticipated by its members on the one hand, and information suggesting the coverage and services provided by the pool is not as reliable as could be obtained from the private insurance sector and/or BRIM and portending fiscal problems for the State if BRIM is compelled to insure only those counties with the highest risk. On these issues, the Subcommittee was addressed by various County Officials from Morgan, Berkeley, Greenbrier, Wayne and Upshur counties, representatives of BRIM, the West Virginia Association of Counties, the County Commissioners' Association of West Virginia, the West Virginia Counties Risk Pool (WVCoRP) and its third-party administrator, VACo Risk Management Programs, various private insurance agents licensed in the state, and representatives of the Professional Independent Insurance Agents of West Virginia.

On **TOPIC 1**, your Subcommittee **RECOMMENDS** that during its 2008 Regular Session, the Legislature continue to monitor the experience of the West Virginia Counties Risk Pool (WVCoRP) and its third-party administrator, as well as the current ongoing efforts of BRIM to ensure that all county properties are adequately insured either through the pool, private insurers or

through BRIM, and at the conclusion of the Regular Session, if circumstances warrant, that these issues be designated for continued formal study during the ensuing Interim Meetings of the Legislature.

On **TOPIC 2: Tax issues generally**, the Subcommittee received information on the results of the 3 month tax amnesty period authorized by HB2775 (07RS). The bill eliminated the 5% privilege tax imposed on new resident motor vehicle registrations effective June 7, 2007, and the amnesty period allowed those who moved into the state prior to that date without timely registering their motor vehicles an amnesty period during which they could register without paying the 5% tax. On this issue, the Subcommittee was addressed by a representative of the West Virginia Division of Motor Vehicles, who reported a significant increase in motor vehicle registrations during the amnesty period over the number of registrations occurring during the same period in the prior year.

On **TOPIC 2**, your Subcommittee **RECOMMENDS** that the Legislature continue to seek means to enforce current law requiring that residents of this State maintain West Virginia registration of their motor vehicles located in this State.

On **TOPIC 3: Evaluation of long-term funding for the Special Reclamation Fund and creation of a Water Trust Fund**, the Subcommittee received information on efforts of the Special Reclamation Fund Advisory Council to find an adequate and fairly derived funding source for the cost of fully reclaiming mining sites where bonds given to cover those costs and then forfeited were insufficient to complete the treatment of the acid mine drainage in the water flowing from these mining sites. On this issue, the Subcommittee was addressed by the Division of Land Restoration of the West Virginia Department of Environmental Protection, who reviewed the history of this State's efforts to address the Special Reclamation Fund issue, as well as by the Center for Business

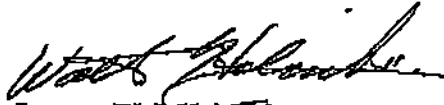
and Economic Research at Marshall University, which was commissioned by the Advisory Council to assess the expected cost of providing treatment of the acid mine drainage in the water flowing from these forfeited mining sites and make recommendations to the Legislature for funding these costs. The Center's report found that the current 7¢ per ton of coal tax currently imposed on the coal industry will be insufficient to cover all future costs of this water treatment. The report recommends that while full-cost bonding by mining operations be required to cover costs for sites needing land reclamation, the State establish a special "Water Trust Fund" to cover the costs of existing and unexpected future acid mine drainage water treatment at forfeited sites, some of which could require treatment in perpetuity, and provides some options for funding the Water Trust Funding, including a direct appropriation of the necessary funds, or a further temporary increase in coal tonnage taxation.

On TOPIC 3, your Subcommittee B **RECOMMENDS** that the Legislature consider the report of the Marshall University Center for Business and Economic Research and the full 2006 Annual Report Special Reclamation Fund Advisory Council which recommended, with the exception of the industry representative on the Council, that the Legislature establish a water trust fund and fund it with Coal Severance Tax revenues and an additional tax on clean coal. It is **FURTHER RECOMMENDED** that the Legislature consider any budgetary and general law proposals that the Executive may submit on the issue in response to the United States District Court's recent decision to hold in abeyance a motion to reopen a case pending before it seeking federal action to compel adequate funding of these water treatment costs until the Legislature has the opportunity to consider the Advisory Council's recommendations during the 2008 Regular Session.

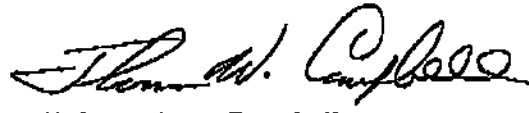
On TOPIC 4: HCR 50 - Requesting the Joint Committee on Government and Finance study the soft drink tax, your Subcommittee B **RECOMMENDS** that the Legislature continue to examine

this issue during the 2008 Regular Session and at the conclusion of the Regular Session, if circumstances warrant, that this issue be designated for continued formal study during the ensuing Interim Meetings of the Legislature.

Respectfully Submitted,



Senator Walt Helmick
Co-Chair



Delegate Tom Campbell
Co-Chair

***West Virginia Legislature
Joint Committee on Finance
2007-2008 Interims
Subcommittee C***

Senate Members:

*Senator Bailey, Chair
Senator Chafin
Senator Edgell
Senator Love
Senator Sypolt
Senator Helmick, Ex Officio*

House Members:

*Delegate Kominar, Chair
Delegate Anderson
Delegate Klempa
Delegate Manchin
Delegate M. Poling
Delegate Stalnaker
Delegate Walters
Delegate Yost
Delegate White, Ex Officio*

Final Report of

SUBCOMMITTEE C

TO THE JOINT STANDING COMMITTEE ON FINANCE

January 8, 2008

Your Subcommittee C was appointed following the 2007 regular Session of the 78th Legislature and assigned the following topics for study during the interim period:

- Topic 1: HCR62- Requesting the Joint Committee on Government and Finance study large land holdings, county by county, to determine value taxation of deed holders of lands in excess of one thousand acres.*
- Topic 2: The PEIA Other Post Employment Benefits (OPEB) liability and GASB reporting requirements, generally.*
- Topic 3: SB 496 & HB 2916- Establishing a pay plan for all members for the classified-exempt service of the state.*

During the 2007-2008 legislative interim period, Subcommittee C met and received information on these topics of study from state agencies, political subdivisions and other sources. Subcommittee C

REPORTS as follows:

On **TOPIC 1: Property taxation of large land holdings**, your Subcommittee received information from Wade Thompson, Director, Property Tax Division of the West Virginia Department of Revenue on value assessment and taxation of real property statewide. The Honorable Preston B. Gooden, Berkeley County Assessor presented property tax assessment proposals which would provide property tax relief to senior citizens.

On **TOPIC 1**, your Subcommittee **RECOMMENDS** that during its 2008 Regular Session, the staff analyze state constitutional issues which impede the State from discriminating between property owners on the basis of the size of their property holdings.

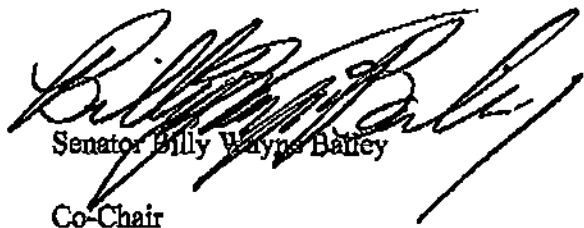
On **TOPIC 2: PEIA Other Post Employment Benefits (OPEB) liability and GASB reporting requirements**, the Subcommittee received extensive information on the valuation of the liability; plan invoicing; employer reporting; and, implications and issues for state spending units, county school boards, counties, municipalities and other political subdivisions and their perspectives.

On **TOPIC 2**, your Subcommittee **FINDS** there to be 1.) Significant uncertainty regarding which entities and funding sources are responsible for what parts of the plan's liability; 2.) Significant uncertainty regarding what the "defined benefits" that have been "promised" to retirees actually are; 3.) Common misunderstandings among PEIA employer participants regarding invoiced-optional amounts supporting the OPEB unfunded liability; 4.) A need for a sufficient OPEB funding and/or liability reduction/elimination plan; 5.) A need for more sophisticated accounting for individual employer contributions toward the optional, unfunded amounts, which recognizes the time-value of contributions, credits the Trust Fund amounts to individual employers and eliminates current disincentives to prefunding; 6.) A need for greater self-determination among political subdivisions regarding benefits provided to their retirees; and, 7.) A need for greater recognition of differences among the benefit structures of the various political subdivisions of the State and corresponding valuations of their

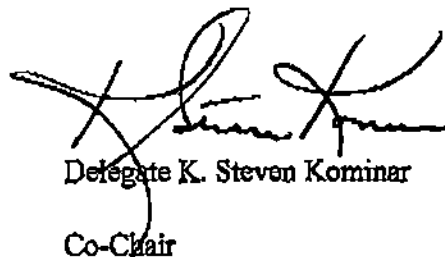
liabilities. Your Subcommittee C **RECOMMENDS** that the Legislature continue to study the OPEB unfunded liability during its 2008 Regular Session and in the subsequent interim period. Regarding a legislative proposal presented to the Subcommittee by the West Virginia Municipal League and endorsed by the West Virginia Association of Counties, your Subcommittee C **REPORTS** it as attached hereto, and submits it to the Joint Standing Committee on Finance without recommendation.

On **TOPIC 3: Establishing a pay plan for all members for the classified-exempt service of the state**, your Subcommittee made no progress due to its efforts on its other important topics of study.

Respectfully Submitted,



Senator Billy Wayne Bailey
Co-Chair



Delegate K. Steven Kominar
Co-Chair

§5-16-22. Permissive participation; exemptions.

The provisions of this article are not mandatory upon any employee or employer who is not an employee of or is not the state of West Virginia, its boards, agencies, commissions, departments, institutions or spending units or a county board of education, and nothing contained in this article shall be construed so as to compel any employee or employer to enroll in or subscribe to any insurance plan authorized by the provisions of this article.

Those employees enrolled in the insurance program authorized under the provisions of article two-b, chapter twenty-one-a of this code shall not be required to enroll in or subscribe to an insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost of the premium may be exempted from the provisions of this article. Any employee or employer exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee or employer, but employee or employer shall not remain enrolled in both programs. The provisions of articles fourteen, fifteen and sixteen, chapter thirty-three of this code, relating to group life insurance, accident and sickness insurance, and group accident and sickness insurance, are not applicable to the provisions of this article whenever the provisions of articles fourteen, fifteen and sixteen, chapter thirty-three of this code are in conflict with or contrary to any provision set forth in this article or to any plan or plans established by the public employees insurance agency.

Employers, other than the state of West Virginia, its boards, agencies, commissions, departments, institutions, spending units or a county board of education are exempt from participating in the insurance program provided for by the provisions of this article unless participation by the employer has been approved by a majority vote of the employer's governing body. It is the duty of the clerk or secretary of the governing body of an employer who by majority vote becomes a participant in the

insurance program or offers post retirement benefits to its employees to notify the director not later than ten days after the vote.

Any employer, who is a non-state agency and elects by majority vote of its governing body to offer health care coverage to its retirees, and whether the employer participates in the public employees insurance agency insurance program as a group may or not, which has retired employees, their dependents or surviving dependents of deceased retired employees who participate in the public employees insurance agency insurance program as authorized by this article, and shall pay to the agency the same contribution toward the cost of coverage for its retired employees, their dependents or surviving dependents of deceased retired employees as the state of West Virginia, its boards, agencies, commissions, departments, institutions, spending units or a county board of education pay for their retired employees, their dependents and surviving dependents of deceased retired employees, as determined by the finance board: *Provided*, That after the thirtieth day of June, one thousand nine hundred ninety-six, an employer who is a non-state agency is only required to pay a contribution toward the cost of coverage for its retired employees, their dependents or the surviving dependents of deceased retired employees who elect coverage when the retired employee participated in the plan as an active employee of the employer for at least five years only if the governing body approves the same by ordinance or order. Once approved by the participating employer's governing body. Each employer is hereby authorized and required to budget for and make such payments as are required by this section. A non-state agency's participation in the consolidated public retirement system is not an election to other post retirement benefits to its employees or retirees.

**West Virginia Legislature
Joint Committee on Finance
Subcommittee B**

*Tax Issues Generally
HCR 50 (Study of the Soft Drink Tax)
HCR 87 (Study of insurance coverage on public buildings and property)
Long term funding of the Special Reclamation fund and the creation of a Water Trust
Fund*

December 9, 2007

3:00 PM

Senate Finance Committee, Room 451-M

Senate Members

Senator Helmick, Chair	<i>Present</i>
Senator Fanning	<i>Present</i>
Senator McCabe	<i>Absent</i>
Senator Plymale	<i>Absent</i>
Senator Sharpe	<i>Absent</i>
Senator Boley	<i>Present</i>
Senator Sprouse	<i>Present</i>

House Members

Delegate Campbell, Chair	<i>Absent</i>
Delegate Carmichael	<i>Present</i>
Delegate Craig	<i>Present</i>
Delegate Doyle	<i>Present</i>
Delegate Evans	<i>Present</i>
Delegate Marshall	<i>Absent</i>
Delegates Spencer	<i>Absent</i>
Delegate Tucker	<i>Present</i>
Delegate White, ex officio	<i>Present</i>

Senator Helmick called the meeting to order. A silent roll was taken. Recommendations on each of the study topics assigned were discussed by the Subcommittee. Staff was charged with preparing a draft of a final report of the Subcommittee's actions during the year for the Subcommittee's consideration during the January interim meetings.

Delegate White's motion to approve the minutes of the previous meeting was adopted.

There being no further business to come before the committee, the meeting adjourned.

Chair

Walt Helmick

Clerk

Nancy Butcher

West Virginia Legislature
Joint Committee on Finance
Subcommittee C

HCR 62- *Requesting the Joint Committee on Government and Finance study large land holdings, county by county, to determine the value taxation of deed holders of lands in excess of 1,000 acres.*

GASB Implementation Generally

December 11, 2007

9:00 AM

Senate Finance, Room 451-M

Senate Members

Senator Bailey, Chair	<i>Present</i>
Senator Chafin	<i>Absent</i>
Senator Edgell	<i>Present</i>
Senator Love	<i>Present</i>
Senator Sybolt	<i>Present</i>
Senator Helmick, Ex Officio	<i>Present</i>

House Members

Delegate Komisar, Chair	<i>Present</i>
Delegate Anderson	<i>Present</i>
Delegate Klempa	<i>Present</i>
Delegate Manchin	<i>Absent</i>
Delegate Poling	<i>Present</i>
Delegate Stalnaker	<i>Present</i>
Delegate Walters	<i>Present</i>
Delegate Yost	<i>Present</i>
Delegate White, ex officio	<i>Absent</i>

The meeting was called to order by Delegate Komisar. A silent roll call was taken. The minutes of the November meeting were approved.

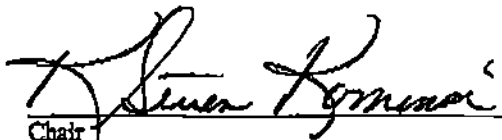
The Chairman introduced Mr. Jason Haught, Chief Financial Officer of the Public Employees Insurance Agency. Mr. Haught made a presentation to the committee regarding the most recent calculations of the state's liability with respect to other post employment benefits (OPEB). He then answered questions from the committee members.


The Chairman recognized Lisa Dooley, Executive Director of the West Virginia Municipal League. Ms. Dooley presented the position of West Virginia's Municipalities regarding OPEB. She then answered questions from the committee members.

Delegate Komisar recognized Ms. Patti Hamilton, Executive Director of the West Virginia Association of Counties. Ms. Hamilton presented the position of the Association regarding OPEB. She then answered questions from the committee members.

Delegate Komisar recognized Ms. Vivian Parsons, Executive Director of the West Virginia County Commissioner's Association. Ms. Parsons presented the position of the Association regarding OPEB. She then answered questions from the committee members.

With no other business to come before the subcommittee, the meeting adjourned.


Chair


Staff Person
FREDERICK S. LEWIS

**PARKS, RECREATION AND NATURAL
RESOURCES INTERIM SUBCOMMITTEE**

**Annual Report to the Joint Committee on
Government and Finance
2007 - 2008**

January 8, 2008

In 2007 the Subcommittee continued its oversight role of the West Virginia state park system and was also actively involved in other wildlife resources and outdoor recreation issues of importance to the State.

Parks Related Issues

Parks issues of interest in 2007 and speakers who appeared before the Subcommittee to address these issues included:

- *Lewis Ledford, Director of the North Carolina Division of Parks and Recreation*, who discussed North Carolina's implementation of a dedicated funding source for the North Carolina parks system and the positive impact it had on the parks system;

- *Don Striker, Superintendent of New River Gorge National River, Gauley River National Recreation Area and Bluestone National Scenic River*. Mr. Striker discussed a recent economic impact study which cited the tremendous economic impact of these national park sites on the economy of southern West Virginia, and discussed his ideas for better facilitating a tourism economy in West Virginia through increased cooperation with West Virginia state parks and other state government agencies;

- *Bob Beanblossom, West Virginia State Parks District Administrator*, who discussed the legacy of the depression era Civilian Conservation Corps in building the initial facilities that would lay the foundation for the beginnings of our state park system.

Wildlife Resources Related Issues

In the 2007 interim year, the Subcommittee also continued its oversight role of outdoor recreation activities managed by the Wildlife Resources Section. Wildlife Resources issues of interest in 2007 and speakers who appeared before the Subcommittee to address these issues included:

- *Christopher W. Ryan, Black Bear Project Leader, Wildlife Resources*, who discussed his work on the West Virginia Bear Research and Monitoring Project;

- *Paul Johansen, Assistant Chief for Game Management, Wildlife Resources*, provided a preliminary review of the results of the Fall 2007 big game hunting season, and also discussed other issues such as Chronic Wasting Disease in the deer herd. A summary of the harvest figures from the 2007 big game hunting season is included in the appendix.

Law Enforcement Issues


West Virginia DNR Law enforcement issues of interest in 2007 included:

Lieutenant Tim Coleman, West Virginia DNR Law Enforcement, discussed recreational boating issues and ways to better improve boater safety through increased boater education and broader enforcement powers for DNR law enforcement officers.

State Parks and other DNR sites visited by the Subcommittee in 2007

In furtherance of its traditional oversight role, the Subcommittee has made a substantial commitment to visit state park sites, as well as other sites managed by the Division of Natural Resources. This year the Subcommittee conducted on-site visitations to Capcapon State Park, Hawks Nest State Park, Plum Orchard Wildlife Management Area, Prickett's Fort State Park, Tygart Lake State Park and Valley Falls State Park. Summaries of these visitation sites are located in the appendix of this report.

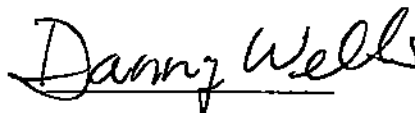
Respectfully submitted,



John Pat Fanning
Chair
State Senate



Jeff Eldridge
Co-chair
House of Delegates



Danny Wells
Co-Chair
House of Delegates

APPENDIX

SUMMARY OF OPERATIONS

Tygart Lake State Park

Background Information

The dam that created Tygart Lake was completed by the US Army Corps of Engineers in 1938. In 1945 the Federal government deeded 1,775 acres around the lake to the State of West Virginia, and 539 acres of this land were used to begin Tygart Lake State Park. An additional 715 acres were added in 1947, through a long-term license agreement. The 1947 license agreement was for 25 years and was renewed in 1972 and 1997. Initial development included boat docks and picnic areas and in the early 1950's a bathhouse, roads, water systems, residence and maintenance buildings were completed. One of the first campgrounds in the Parks system opened at Tygart Lake in 1953, and the rental cabins opened four years later. Construction of the lodge began in 1964 and it was opened for business in 1966.

Current/Recent Projects and Improvements

- Four Executive Suites (deck, refrigerator, microwave, DVD/VCR, sofa, large TV)
- Computer Reservation System
- New parking area near park office
- Re-built fireplaces in ten cabins
- Accepting reservations in campground
- Wireless internet service at lodge
- New lighting in lobby, restaurant and conference rooms
- New freezer for restaurant kitchen
- New automatic fire retention system over cook's station (restaurant kitchen)
- Marina retaining wall
- Lodge retaining wall constructed by WVDOH
- Picnic shelter (financed by the Tygart Lake State Park Foundation)
- New sidewalks at lodge

Major Needs

Capital Improvements

- Build additional lodge rooms
- Build additional conference rooms
- Outdoor amphitheater
- Nature Center with displays
- Swimming pool
- ADA accessible multi-purpose trail
- Marina parking lot expansion and paving
- Picnic shelters
- Laundry building
- Relocate campground and increase size

Equipment

- Tractor with long arm brush hog
- Lodge, restaurant and conference room furniture
- Conference room audio/visual equipment
- Conference room amplifier w/ speaker system
- Four wheel drive vehicle
- Riding mowers
- Weed eaters
- Wood splitter

Major Repairs and Alterations

- Lodge roof replacement
- Pave cabin parking areas
- Pave campsites/walkways
- A/C units needed (conference rooms & restaurant kitchen)
- Replace problematic phone system
- Renovate additional rooms to Executive Suites

Personnel

Tygart Lake operates with seven full-time personnel covering administrative and maintenance functions. The total of summer/seasonal workers is 27 for operation of the campground, cabin and lodge housekeeping, security, grounds maintenance, lodge front desk clerks, and nature/recreation programs. A total of 17 staffers are scheduled on an as needed basis for

restaurant operations in addition to the seasonal manager position. The park also utilizes court mandated community service workers and prisoners from the Pruntytown Correctional Facility.

Superintendent's Comments

We must continue to provide clean, comfortable facilities for park patrons, maintain courteous, informative employees, and be revenue conscious while providing enjoyable and effective services to all park users. An aggressive sales / marketing and advertising program are two key factors that can enhance revenue growth in future years. The park restaurant has been under direct State management for the past several years and visitor satisfaction with the restaurant has been much improved as reflected on comment cards received.

In keeping with the ever changing recreational trends, such as the influx of Jet Ski users on the lake, sound judgment must be exercised to protect the quality of the park experience for all users as well as to protect the natural resources of the area.

With the spectacular natural beauty of Tygart Lake as a background, we have the potential to attract visitors from all walks of life. The Tygart Lake State Park Foundation has been instrumental in providing for our park by purchasing equipment, tools and playgrounds for improvements to the park. We are hopeful that the future will bring more giving by the private sectors with improvements from the state that will make our park the destination area of North Central W.V.

Statistical Trends

Tygart Lake State Park	FY 2006	FY 2005	FY 2004
Attendance	193,899	233,979	143,644
Lodge Occupancy	53.17%	47.87%	46.00%
Cabin Occupancy	56.00%	55.35%	52.73%
Campsite Occupancy	21.22%	20.78%	20.38%
Operating Revenue	674,825	646,140	554,842
Operating Expenditures	900,423	907,633	846,642
Surplus/(Subsidy)	(225,598)	(261,492)	(291,800)
Self-Sufficiency	75%	71%	66%

Three Year Revenue Comparison Tygart Lake State Park

Revenue	FY 2006	FY 2005	FY 2004
Boat Dock Concession	15,903	26,445	24,161
Cabin Rentals	150,405	153,221	113,239
Campsite Rentals	29,998	27,395	27,175
Coin Machine Concession	-	-	375
Cot Rental	4,124	2,082	1,603
Facility Use Rental	331	300	275
Firewood Sales	4,711	4,480	3,882
Games	156	150	134
Gift Shop Sales	33,578	33,821	24,899
Lodge Rooms	178,547	154,022	134,656
Marina	-	14,682	-
Miscellaneous Collections	(4,922)	2,537	17,949
Miscellaneous Concessions	13,568	-	-
Picnic Shelter Fees	2,176	2,278	2,152
Pro Shop	-	(52)	-
Restaurant	238,897	219,912	198,348
Swimming Fees	4,609	4,054	4,672
Vending Machines	2,745	815	1,324
TOTAL REVENUE	674,825	646,140	554,842

Three Year Expense Comparison Tygart Lake State Park

Expense	FY 2006	FY 2005	FY 2004
Total Personal Services	395,283	400,797	389,216
Total Employee Benefits	127,402	123,917	109,044
CURRENT EXPENSE			
Office/Postal/Freight	5,589	6,145	6,330
Printing/Binding	347	546	951
Rental Expense	-	17	-
Utilities	77,120	70,791	72,842
Telephone	16,144	12,108	6,873
Contract/Professional	21,502	16,574	8,611
Travel	1,248	3,283	1,009
IS&C/WV Net	306	-	-
Vehicle Rental	-	-	21
Machine Rental	3,217	2,008	753
Clothing/Household Supplies	39,162	57,411	48,174
Advertising	3,505	2,672	4,113
Vehicle Maintenance Expense	13,515	13,125	10,439
Research/Education/Medical	253	170	614
Maintenance Contracts	1,110	572	723
Merchandise for Resale	152,371	155,932	147,448
Hospitality	2	95	-
Recreation Supplies			
Miscellaneous	2,788	4,737	1,648
Credit Card Processing Fees	7,889	7,136	7,802
Training	535	1,645	372
Miscellaneous Equipment	6,724	995	-
TOTAL CURRENT EXPENSE	353,328	355,962	318,720

Expense	FY 2006	FY 2005	FY 2004
REPAIRS AND ALTERATIONS			
Office Equipment	1,134	534	524
Building/House/Repairs	4,347	4,590	5,141
Building Repairs/Alterations	11,528	13,412	12,575
Vehicle Repairs	1,535	1,038	(620)
Ground Improvements	1,924	461	4,828
Farm/Construction Equipment	4,200	4,617	4,054
Other Repairs/Alterations	(260)	2,305	1,606
TOTAL REPAIRS AND ALTERATIONS	24,410	26,957	28,100
EQUIPMENT			
Office/Communication	-	-	1,562
Household/Furnishings	-	-	-
Vehicle	-	-	-
Live/Farm/Const.	-	-	-
Other Equipment	-	-	-
TOTAL EQUIPMENT	-	-	1,562
TOTAL OPERATING EXPENSES	900,423	907,633	846,642

SUMMARY OF OPERATIONS

Valley Falls State Park

Background Information

Located on the boundary between Marion and Taylor counties, Valley Falls State Park was once the location of a lumber and grist mill community along the banks of the Tygart River. The area was first settled in the late 1700's. The first lumber and grist mills were built in the mid 1800's and the railroad lines were laid around the same time. The town that grew up around the river was devastated by fire and floods during 1886 and 1888, and never fully recovered. The remains of the mill race from the grist mill are still visible in the park. In 1964 the state acquired approximately 750 acres of land around the falls, and Valley Falls State Park was created. With additional land purchases over the years, the park grew to the current size of 1,145 acres. In 1972 a picnic area, water and sewer system, road and parking improvements and landscaping were funded by the Bureau of Outdoor Recreation. Two years later the state provided funding for additional water and sewer improvements and rest room facilities. The picnic shelter and parking area were constructed by the West Virginia Army National Guard in 1989 and the next year a donated building was moved onto the park for use as an office. In 1994 electric service improvements were made. Current opportunities for recreation include game courts, picnicking, fishing and hiking.

Current/Recent Projects and Improvements

- Road paving
- Trail widening and drainage improvements
- Storage building

Major Needs

Capital Improvements

- Maintenance building
- Parking lot expansion

Equipment

- Grounds maintenance equipment
- Playground equipment
- Picnic tables
- Grills

Major Repairs and Alterations

- ADA fountain
- Parking lot paving

Personnel

Valley Falls operates with one full-time Superintendent and two seasonal employees who split a total of 1730 hours during the summer.

Superintendent's Comments

The natural beauty of Valley Falls has led to the area being in great demand as a site for weddings, with an average of more than one per week. The waterfalls serve as a scenic backdrop for school class photos, draw many kayakers and others for recreation and also provide a location for various volunteer fire departments and other rescue personnel to do fast water rescue training. The number of waterfalls and the 100' elevation drop in a short distance provides a significant challenge for both recreation and training. Local schools use the park for day trips as do several area rest homes.

Hikers and mountain bikers enjoy the 18 miles of trails, the picnic shelters are in demand for weddings and family reunions as well as school outings. Art classes from Fairmont State University take advantage of the scenery to hold classes in the park.

Statistical Trends

Valley Falls State Park	FY 2006	FY 2005	FY 2004
Attendance	66,007	60,252	68,510
Operating Revenue	7,601	6,652	6,803
Operating Expenditures	82,659	74,039	71,545
Surplus/(Subsidy)	(75,057)	(67,387)	(64,742)
Self-Sufficiency	9%	9%	10%

Three Year Revenue Comparison Valley Falls State Park

Revenue	FY 2006	FY 2005	FY 2004
Miscellaneous Collections	69	226	92
Picnic Shelter Fees	4,329	4,310	3,589
Vending Machines	3,204	2,117	3,121
TOTAL OPERATING REVENUE	7,601	6,652	6,803

Three Year Expense Comparison Valley Falls State Park

Expense	FY 2006	FY 2005	FY 2004
Total Personal Services	38,188	36,662	36,937
Total Employee Benefits	16,982	16,615	16,771
CURRENT EXPENSE			
Office/Postal/Freight	228	489	204
Printing/Binding	-	38	-
Utilities	8,625	7,591	6,831
Telephone	1,214	260	698
Contract/Professional	910	20	20
Travel	193	202	-
IS&C/WV Net	63	-	-
Machine Rentals	175	20	-
Clothing/Household	377	355	1,181
Advertising	-	74	93
Vehicle Maintenance Expense	4,356	2,783	3,904
Research/Education/Medical			
Maintenance Contracts	307	632	196
Merchandise for Resale	1,041	733	1,882
Recreational Supplies			
Miscellaneous	210	623	133
Training	438	1,099	-
Miscellaneous Equipment	99	48	-
TOTAL CURRENT EXPENSE	18,237	14,967	15,142
REPAIRS AND ALTERATIONS			
Office Equipment	-	-	-
	213	764	131

Expense	FY 2006	FY 2005	FY 2004
Building/House/Comm Repairs			
Building Repairs/Alterations	1,823	92	346
Vehicle Repairs	476	1,425	-
Ground Improvements	3,437	669	892
Farm/Const Equipment	2,929	2,589	1,111
Other Repairs/Alterations	373	258	215
TOTAL REPAIRS AND ALTERATIONS	9,252	5,796	2,695
EQUIPMENT			
Office/Comm Equip	-	-	-
Livestock/Farm/Construction	-	-	-
Other Equipment	-	-	-
TOTAL EQUIPMENT	-	-	-
TOTAL OPERATING EXPENSES	82,659	74,039	71,545

SUMMARY OF OPERATIONS

Prickett's Fort State Park

Background Information

The original Prickett's Fort was built on this site in 1774 by the people of Prickett's Settlement, to protect themselves from Indian attacks. A few years later, the fort was used as a military post during the Revolutionary War. The fort was no longer needed by the turn of the century and was dismantled. As early as 1927, efforts were made to preserve the site and funds were allocated to purchase the land from the Prickett family, who had owned the land for more than 150 years. However, the Great Depression prevented the acquisition at that time and it was not until 1966 when the U.S. Army Corps of Engineers purchased the land and surrounding acreage to build a boat ramp that the idea of a state park was reborn.

The Marion County Historical Society persuaded the Corps to relocate the boat ramp and preserve the fort site. In 1970 the Prickett's Fort Memorial Foundation was formed and research commenced, leading to a detailed plan for rebuilding the fort. Money, labor and materials were donated, but it was not enough to complete the fort. So in 1974 the foundation approached the state for assistance. The legislature appropriated funding to finish the project and the fort was completed and turned over to the Foundation on July 3, 1976. The fort is still operated by the Foundation, a private, non-profit organization which provides authentically costumed interpreters who give demonstrations and answer visitors' questions on pioneer life in the late 18th century. Also part of the park, just outside the fort, is the Job Prickett House, a red brick structure built around 1859. The house is on the National Register of Historic Places and has been restored and furnished with original antiques belonging to the Prickett Family.

Resource Management Issues

Prickett's Bay has filled in due to silt buildup to the point where it is of little or no use to most boaters. The boat launch area has been moved once due to the original site becoming unusable. The current launch area will soon meet the same fate if the area is not dredged.

Current/Recent Projects and Improvements

Visitors Center with ticket office, gift shop, banquet room, research library, museum and offices
Old Visitors Center converted to Educational Annex with classroom facilities
Blacksmith shop under construction

Major Needs

Capital Improvements

Maintenance building
Parking lot expansion

Equipment

- Grounds maintenance equipment
- Playground equipment
- Picnic tables

Major Repairs and Alterations

- Shoreline rip rap
- ADA fountain
- Parking lot paving
- Stone for road
- Residence repairs

Personnel

Prickett's Fort State Park operates with two full time personnel covering administrative and maintenance functions. One seasonal employee is utilized during the summer to assist with grounds maintenance. The Prickett's Fort Memorial Foundation handles all staffing functions for the operation of the Visitor's Center and historical interpretation. The Foundation receives a state appropriation of \$92,874 annually to help fund operations. This will go to \$120,000 in FY 08.

Superintendent's Comments

The area provides a pleasant break for many travelers on I-79 as well as hikers and cyclists using the MCPARC and Mon River trails. Community concerts and Fairmont State University groups bring visitors to the amphitheater throughout the summer. The boat launch area is heavily used from the spring thaw through the first winter freeze. In addition to individuals trying their luck, over 20 scheduled fishing tournaments use the area for launching and weigh-in.

The historical nature of Prickett's Fort draws countless school groups and others interested in the primitive and harsh way of life at the time of the birth of our nation. As we journey into the 21st century, the fort provides a glimpse into the past that would otherwise be lost.

Statistical Trends

Prickett's Fort State Park	FY 2006	FY 2005	FY 2004
Attendance	83,814	79,106	73,578
Operating Revenue	-	-	25
Operating Expenditures	115,757	111,377	118,782
Surplus/(Subsidy)	(115,757)	(111,377)	(118,757)
Self-Sufficiency	-	-	-

Three Year Revenue Comparison

Prickett's Fort State Park

Revenue	FY 2006	FY 2005	FY 2004
Miscellaneous Concession	-	-	25
TOTAL OPERATING REVENUE	-	-	25

Three Year Expense Comparison Prickett's Fort State Park

Expense	FY 2006	FY 2005	FY 2004
Total Personal Services	51,513	53,089	56,224
Total Employee Benefits	28,476	27,613	28,491
CURRENT EXPENSE			
Office/Postal/Freight	232	260	181
Utilities	20,158	13,144	14,536
Telephone	647	446	443
Contract/Professional	912	394	210
Travel	1,400	2,049	456
IS&C/WV Net	63	-	-
Machine Rentals			
Clothing/Household	1,427	2,859	3,181
Advertising			
Vehicle Maintenance Expense	3,359	2,464	1,853
Research/Education/Medical			
Maintenance Contracts	-	-	146
Merchandise for Resale	104	120	34
Miscellaneous	547	216	138
TOTAL CURRENT EXPENSE	31,372	22,172	21,670
REPAIRS AND ALTERATIONS			
Building/House/Comm	90	466	144
Building Repairs/Alterations	579	2,107	7,939
Vehicle Repairs	-	-	1,167
Ground Improvements	2,992	470	499
Farm/Const Equip	641	5,414	2,647

Expense	FY 2006	FY 2005	FY 2004
Other Repairs/Alterations	93	46	-
TOTAL REPAIRS AND ALTERATIONS	4,395	8,503	12,396
EQUIPMENT			
Household Equip/Furniture	-	-	-
Livestock/Farm/Const	-	-	-
Other Equipment	-	-	-
TOTAL EQUIPMENT	-	-	-
TOTAL OPERATING EXPENSES	115,757	11,377	118,782

SUMMARY OF OPERATIONS

Audra State Park

Background Information

In 1948 the state purchased 355 acres of land on the Middle Fork River from the Baltimore and Ohio Railroad company to develop as a state park. The park was named after the town of Audra which existed on the site at the turn of the century. The first construction by the state centered development of a swimming area with bathhouse, snack bar, basket room and restrooms on the Middle Fork River. Additional land was purchased in the late 1950's and construction began in 1960 on a campground and bathhouse with laundry facilities. Other improvements included a playground and country store. Demand at the campground led to an expansion in the early 1970's consisting of 25 additional sites and a new bathhouse.

Resource Management Issues

The forest and river are the main attractions at Audra State Park. With the cooperation of the Division of Forestry, the area is monitored for Gypsy Moth infestation. The area has been treated in the past and is not currently threatened with defoliation.

The river has received much attention from the Division of Natural Resources and other state and federal agencies. Since 1996, the river has been suitable for trout stocking and continues to attract fishermen from near and far. Further more, early spring run-off brings many kayakers to the park to test their skills on the river.

Financial Trends

The campground is, of course, the largest revenue producer of the park. During the summer months, the campground operates at around a 40% occupancy rate which rises to 90% on weekends. The swimming area and snack bar also help contribute to the park's general revenue. We are hoping in the near future to have a campground check-in station and store to help increase general revenue and provide better service to the patrons of the campground.

Current/Recent Projects and Improvements

New picnic shelter
Repairs to concession stand floor and building
Renovations and painting to large campground bath house

Re-shingling of picnic area bath house, woodshed, residence and concession stand

Major Needs

Capital Improvements

Check-in station/camp store for campground.
Electric to the picnic shelter

Equipment

Playground equipment
Grills
Riding lawn mower

Major repairs and Alterations

New office building roof
Rewiring of office and residence
Repaving of shelter parking lot
Electric service to campsites

Personnel

Audra currently operates with three full-time staff members for administrative functions and building/grounds maintenance. During the summer months there are ten summer/seasonal employees who provide service at the swimming, picnic, concession, and camping areas.

Superintendent Comments

Many of Audra State Park's guests are second and third generation visitors who return to the park bringing their children and grandchildren. The two nearby colleges also provide many visitors. Graduates are always stopping to say how they visited the park during their time in college and are now camping with their families.

Enough cannot be said for the improved water quality of the Middle Fork River. This improvement has allowed for spring trout stocking and now small mouth bass are becoming quite prevalent in the river. Given the amount of swimming done in the river outside the developed swimming area, which takes in very little revenue, consideration could be given to its closure.

With the increase cost of traveling, Audra will continue to see increases in attendance and occupancy. It is important for Audra to be able to grow as a park so that it may continue to attract new visitors and remain the place that will draw them back year after year.

Statistical Trends

Audra State Park	FY 2006	FY 2005	FY 2004
Attendance	91,116*	65,777	62,721
Campsite Occupancy	32.01%	33.20%	33.02%
Operating Revenues	71,205	63,235	60,746
Operating Expenditures	176,144	157,634	149,992
Surplus/(Subsidy)	(104,939)	(94,399)	(89,247)
Self-Sufficiency	40%	40%	40%

*Significant jump likely due to improved methods of surveying/traffic counts.

Audra State Park Three Year Revenue Comparison

Revenue	FY 2006	FY 2005	FY 2004
Campsite Rental	59,031	52,104	50,884
Coin Laundry	482	592	576
Firewood Sales	9,118	9,190	6,499
Gift Shop Sales	-	136	-
Miscellaneous Collections	(33)	(231)	(9)
Picnic Shelter Fees	195	-	-
Snack Comm./Souv.	1,035	743	513
Swimming Fees	1,377	703	942
Vending Machines	-	-	1,341
TOTAL OPERATING REVENUE	71,205	63,235	60,746

Audra State Park Three Year Expense Comparison

Expense	FY 2006	FY 2005	FY 2004
Total Personal Services	88,770	86,343	79,911
Total Employee Benefits	36,355	33,269	30,964
CURRENT EXPENSE			
Office/Postal/Freight	316	329	245
Utilities	19,347	14,177	14,894
Telephone	1,115	1,159	1,308
Contract/Professional	983	613	88
Travel	225	193	167
Machine Rental	120	1,390	510
Clothing/Household	4,069	1,668	2,818
Vehicle Maintenance	4,589	4,829	2,904
Research/Edu./Med.	209	-	-
Maintenance Contracts	373	312	269
Merchandise for Resale	2,421	2,010	2,329
Miscellaneous	185	466	831
Training	-	100	-
Miscellaneous Equipment	2,486	253	4,864
TOTAL CURRENT EXPENSES	36,438	27,499	31,228
REPAIRS AND ALTERATIONS			
Building/Household/Comm	46	80	-

Expense	FY 2006	FY 2005	FY 2004
Building Repairs/Alterations	5,029	4,619	2,359
Vehicle Repairs	486	3,697	3,367
Ground Improvements	1,521	362	1,112
Farm/Const. Equipment	571	134	480
Other Repairs and Alterations	6,928	1,630	572
TOTAL REPAIRS AND ALTERATIONS	14,581	10,523	7,889
EQUIPMENT			
Office/Comm. Equipment	-	-	-
Household Equip/Furn	-	-	-
Vehicles	-	-	-
Livestock/Farm/Const.	-	-	-
Other Equipment	-	-	-
TOTAL EQUIPMENT	-	-	-
TOTAL OPERATING EXPENSES	176,144	157,634	149,992

SUMMARY OF OPERATIONS

Hawks Nest State Park

Background Information

Originally known as Marshall's Pillar, for United States Supreme Court Chief Justice John Marshall, the main overlook of Hawks Nest State Park is just off what was once the famed James River and Kanawha Turnpike, a major east-west land route in the 1800's, now known as the Midland Trail. The current name of Hawks Nest comes from the osprey, a raptor that once nested in the face of the cliffs overlooking the New River. A C&O Railroad depot, post office and store once stood where Mill Creek flows into the New River. The latter building was remodeled into a hotel in 1870 and operated until destroyed by fire in 1902. In 1875, the Hawks Nest Coal Company, based in London, England, built a coal tipple and coke ovens where the lower tram building now stands.

In 1934 the Hawks Nest Dam was completed to provide water to a hydroelectric power plant downstream. The river is channeled into a 40 foot high tunnel that cuts through the mountain and was the site of the nation's worst industrial tragedy when as many as 1,500 workers died from silicosis, a disease of the lungs brought on by the silica dust from blasting the tunnel. In 1935 the state purchased the land around the overlook and the CCC camp based at Babcock State Park began construction of many of the present facilities including the picnic shelter, snack bar and souvenir shop, restrooms, museum and many stone walls. In 1963 the parks system purchased additional land and constructed the lodge and conference complex, which opened in 1967. The aerial tram was installed in 1970 to transport visitors to the river complex, which now includes gift shop, nature center, and restrooms, and is home to the New River Jet Boat concession.

A lease agreement was signed in 1999 transferring to state operation a 9-hole golf course, which was originally the private country club belonging to Union Carbide and later sold to Elkem Metals, near Gauley Bridge, WV. The course property includes a clubhouse, conference room, and a small maintenance shed for equipment.

In the summer of 2002 the New River National Park announced an extension of its boundary to include the New River Gorge property from the New River Bridge to Hawks Nest State Park. In doing so, this boundary extension will protect the viewshed of Hawks Nest State Park from development. However, the encroachment of gated communities and upscale housing developments in the area may affect the Hawks Nest historical view.

Business Management Issues and Trends

Restaurant Operations

In 2004 the state operated restaurant was converted to a concessionaire operation with the Twin Falls restaurant operator taking over. The concession showed positive improvement in service and customer comments. However, the concessionaire just served notice that she will be leaving on November 1 due to staffing difficulties. The lease opportunity is to be advertised ASAP. We are not interested in returning to self operation unless absolutely necessary.

Linen Operations

In the winter of 2006, an in-house commercial laundry was constructed for hotel linen service, due poor vendor service and product quality. In 2007, the laundry took responsibility for providing linen service to Babcock State Park. The service has provided much improved quality of linen as well as reduced costs as compared to rental service.

Golf Course Management Issues

The golf course has been managed by the DNR/State of West Virginia since April 1999. In the past the course had been run for the use of Elkem employees. By the mid 1990's, it became quite clear that the membership could not maintain the course, and the infrastructure was in need of attention. The course was offered for sale to private operators, but no interest was generated. The State of West Virginia, DNR, was offered the property for a permanent lease of \$1.00, with the understanding that the property would be maintained as a golf course, with no major construction that might affect the tunnel which feeds the hydro station at Gauley Bridge. The lease arrangement received legislative endorsement and encouragement through a Budget Digest line item.

The course has been plagued by numerous floods since the state took control including one event that disrupted the golf course water supply for an extended period resulting in extensive die-off of turf. The watering system was replaced in 2002 but a great deal more remains to be done to offset years of neglect prior to the state lease. Projects should include replacement of pro shop, improved public restrooms, compliance chemical storage, maintenance facility, fairway drainage, cart paths completion, and greens repair.

Since 2004, efforts have been concentrated on improved turf management to greens and tees condition. Three greens had to be totally rebuilt with new sod at a cost of over \$60,000, with aggressive soil amendment and new turf seeding projects.

Play in 2007 finally is showing improvement through incentive discount packages for lodge guests and on weekday evenings. Attraction of a 9-hole course continues to draw less than the area 18-hole course. So we have had to promote course with incentive packages and promos.

Golf Repair and Improvement Projects

In-house projects since April 1999

- Constructed replacement reservoir, 66,000-gallon
- Constructed replacement irrigation system
- Constructed new sand bunkers
- Constructed one new green to PGA standards
- Built two new cart pathway bridges
- Constructed concrete cart pathway
- Removed deteriorated tennis courts
- Re-roofed club house flat roof
- Filled swimming pool and retrofitted into reception area
- Rewired club house from 25 cycle to 60 cycle.
- Installed new main service
- Rebuilt most tee boxes
- Rewired the maintenance building
- Began annual aerification and turf schedule for greens
- Repaired and installed new storm drain culverts
- Renovated dining area for small conference and reception areas

Current/Recent Projects and Improvements

- Upgrade guest rooms HVAC and air handlers on 4th floor
- Replacement of dining room windows to Low E glass
- Replacement of guest room balcony sliding doors
- Renovate all rooms on 4th floor
- Offer complementary wireless internet to guests and meetings
- Upgraded suites to king beds
- Upgraded ADA rooms to queen beds with refrigerator
- Installed complete commercial laundry for lodge and Babcock cabins
- Replaced jetboat dock boardwalk
- Installed ADA courtesy dock at public slip
- Moved-loaned Hawks Nest museum to Town of Ansted – for improved guest access

In progress

- Upgrade televisions in suites to flat screens
- Upgrade suites bathrooms
- Install microwaves, mini refrigerators & coffee pots in suites
- Offer complementary wireless internet to guests and meetings
- Guest room upgrade of paint and plaster

Upgrade guest room fixtures and wall decorations

Tram

Replace bull wheel bearings and bearings
Install new maintenance arms for workers safety
Repair all towers pins, sheeves, and bearings
Hire certified electrical contractor to repair electrical service failures
Replaced cliff tower main walking arm beam and assembly
Replaced over speed safety timers
Rewired complete communication cable from bottom to top stations
Replaced defective relays in operators panel

Major Needs

Capital Improvements

Lodge expansion

A 30 room lodge is not a particularly efficient size. The lodge would probably benefit from an expansion.

Tram

The aerial tram is probably approaching the end of its useful life and may need to be replaced within five to ten years, unless the decision would be made to eliminate the service entirely. An A/E study is ongoing to identify major needs.

Golf maintenance building

A new golf maintenance building is needed for storing and servicing grounds maintenance equipment and materials.

Equipment

Small backhoe with front end loader
Small cart for linen service – electric
Telephone system replacement
Two way radio base system – and mobiles – 911 service
Greens walker mower

Major Repairs and Alterations

Lodge boiler upgrade for heating system
Chiller unit replacement
Lodge plumbing replacement
Lodge HVAC air handler replacements
Lodge electrical and lighting improvements
Lodge thermo-pane window/door replacement
Paving golf course parking, service roads

Continue cart paths
Golf course drainage
Continue reconstruction of greens
Replace golf maintenance building facility

Personnel

The park operates with 19 full-time employees.

- 1 Superintendent
- 1 Assistant Superintendent
- 1 Lodge Manager / group services coordinator
- 1 Maintenance Coordinator
- 3 Maintenance workers, including mechanic, carpenter and laborer.
- 1 Activities Coordinator /Naturalist
- 2 Clerical: Audit clerk and Office assistant
- 2 Retail clerk/buyer
- 2 Housekeepers (including one Lead Housekeeper)
- 4 Desk clerks (including supervisor)
- 1 Golf Facility Manager

Summer and seasonal staff includes cashiers, laborers, food and beverage service workers, grounds keepers, housekeepers and night security.

Superintendent's Comments

Hawks Nest continues to be a quiet getaway close enough to Charleston and Beckley as well as attracting regional meetings and reunions from Virginia and North Carolina. This facility is showing a plateau in growth with regional competition providing improved amenities and conference space. We have made small steps toward maintaining our active presence for group services such as wireless internet and golf packaging. Special dinner theater events continue to attract sell-out crowds to see local artist performances; the murder mystery theaters are always a favorite. Motor coach planners continue to use our facility as base camp for the New River region opportunities. However, a 31 room lodge is not sufficient for motor coach travel agents, and has resulted in turned away revenue both in room sales as well as conference space.

The Town of Ansted- Hawks Nest Rail Trail has been an exceptional attraction to the river and lodge guests. This bike trail runs from just south of Route 60 and follows Mill Creek to the Hawks Nest tramway and provides guests a looped bike trail with the tramway tying in the loop via an aerial shuttle. The bike trail also offers excellent nature interpretation resources for our Jetboat and tramway program for school groups each spring and fall. We are currently working with National Park Service and Town of Ansted for a cooperative trail project tie in the trail to New River Visitor Center at the Bridge.

The New River Jetboat, operated by Cindy Dragan, continues to be a positive link for revenue generation from guests looking for a tour of the New River that is less strenuous than rafting. The 14-passenger Jetboat provides an exhilarating ride up the New River and offers a special view of New River Bridge and the thrill of a few smaller rapids.

This facility continues to be the host for the Country Roads Festival, which is held each year in September by the Ansted Lions Club. The festival features a weekend of crafts demonstration, quilting classes, craft and food sales, live blue grass, country and gospel music. The park also is the host for the Hawks Nest Foundation "Lights along the Midland Trail." The Christmas ornament display features hundreds of lighted ornaments located on the park and throughout the Ansted community. The development of partnerships with local whitewater rafting companies also has helped develop lodge room night referrals and customer recreational opportunities, both of which enhance revenue growth.

This year we worked with Ansted community in an effort to provide improved access to the Hawks Nest - Calhoun Museum Collection. The museum, situated on the knoll above the historic overlook, was very difficult to access and required negotiating a steep incline of over 100 steps to the CCC facility; consequently, the facility was not ADA accessible nor was restroom service available. The new location, in the Town of Ansted, now provides for improved access for all guests, and as well, it is in an environmentally controlled room to insure protection of artifacts and historical items. The new museum location has been excellent stop over link with motor coaches and school groups that avoided the facility due to location barriers.

The computerized reservation system has provided improved guest service particularly with accounting tracking as well as guest tracking and internet reservations. We are also able to use this software for facility management, optimizing room availability, customer service, and improved group service and facility maintenance planning. However, the amenities we provide are once again approaching a major refurbishing/redecoration cycle.

Because Hawks Nest State Park is strategically located along the New River Gorge, in coming years, we can position our property to grow along with the area with attention to these details and expansion of existing facilities.

Statistical Trends

Hawks Nest State Park	FY 2007	FY 2006	FY 2005
Attendance	245,848	352,784	411,477
Lodge Occupancy	57.54%	57.80%	56.34%
Operating Revenue	698,743	721,291	895,027
Operating Expenditures	1,130,340	1,211,875	1,349,287
Surplus/(Subsidy)	(431,597)	(490,583)	(454,260)
Self Sufficiency	62%	60%	66%

Three Year Revenue Comparison Hawks Nest State Park

Revenue	FY 2007	FY 2006	FY 2005
Coin Machine Concession	2,120	959	1,534
Facility Use Rental	-	-	195
Gift Shop Sales	195,652	197,804	190,181
Greens Fees	-	(548)	-
Lodge Rooms	451,999	473,791	434,183
Miscellaneous Collections	(90)	(8,808)	2,923
Miscellaneous Concessions	2,119	1,992	(1,836)
Picnic Shelter Fees	2,535	3,639	664
Restaurant Concession	5,883	1,645	2,449
Restaurants	319	13,508	229,242
Tram	38,196	37,309	35,491
Vending Machines	10	-	-
TOTAL OPERATING REVENUE	698,743	721,291	895,027

Three Year Expense Comparison Hawks Nest State Park

Expense	FY 2007	FY 2006	FY 2005
Total Personal Services	548,002	567,392	646,064
Total Employee Benefits	227,977	244,157	237,664
CURRENT EXPENSE			
Office/Postal/Freight	5,429	5,778	4,893
Printing/Binding	298	1,593	-
Utilities	100,711	100,638	93,276
Telephone	21,423	24,250	25,385
Contract/Professional	7,976	20,096	36,762
Travel	1,129	2,180	1,736
IS&C/WV Net	331	247	-
Vehicle Rental	135	4,996	150
Machine Rentals	4,504	4,640	6,891
Association Dues	250	50	250
Clothing/Household	32,182	43,243	32,535
Advertising	3,847	4,151	10,963
Vehicle Maintenance Expense	4,885	5,821	4,134
Research/Education/Medical	-	108	217
Maintenance Contracts	5,565	5,075	5,795
Merchandise for Resale	82,563	108,562	187,312
Miscellaneous	916	1,287	878
Credit Card Processing Fees	10,610	9,325	9,927
Training	700	253	100
Attorney Fees	-	-	63
Miscellaneous Equipment	16,947	10,852	1,872
TOTAL CURRENT EXPENSE	300,400	353,144	423,139
REPAIRS AND ALTERATIONS			
Office Equipment	3,507	496	1,074

Expense	FY 2007	FY 2006	FY 2005
Building/House/Comm	23,029	11,450	14,455
Building Repairs/Alterations	17,753	8,811	4,464
Vehicle Repairs	1,021	768	1,359
Ground Improvements	3,951	6,432	1,606
Farm/Construction Equipment	180	1,306	808
Other Repairs/Alterations	4,519	17,919	18,653
TOTAL REPAIRS AND ALTERATIONS	53,960	47,182	42,419
EQUIPMENT			
Office/Communication Equip	-	-	-
Household Equip/Furnishing	-	-	-
Vehicles	-	-	-
Other Equipment	-	-	-
TOTAL EQUIPMENT	0	0	0
TOTAL OPERATING EXPENSES	1,130,340	1,211,875	1,349,287

SUMMARY OF OPERATIONS

Plum Orchard

Wildlife Management Area

Background Information

Located in Fayette County, Plum Orchard Lake is four miles from the Mossy interchange of the West Virginia Turnpike. The lake was constructed by the West Virginia Department of Natural Resources. Groundbreaking for the project took place on November 14, 1960 with the dam completed on May 15, 1962.

The total surface area of the lake is 202 acres with a six and one half mile shoreline. The maximum depth of the lake is 40 feet. Over 2,600 acres of watershed drain into the lake. There are 43 rustic campsites, each with tent pad, grill and picnic table. The lake is open for fishing with three boat launch ramps. A rifle range and picnic tables are also on the area.

Current/Recent Projects and Improvements

- ADA rest room and campsite improvements
- Campground bathhouses
- Storage building
- Footbridges in camping areas
- Trail from campground to boat launch area
- Two fishing piers constructed
- Two boat docks at launch areas constructed
- Campsite renovations

Major Needs

Capital Improvements

- Bathhouse
- Picnic shelter
- Vault toilet in picnic area

Equipment

- Grader blade for tractor
- Playground equipment
- Weedeater

Major Repairs and Alterations

- Roofing storage building
- Lily pad control

Personnel

Plum Orchard operates with one full time superintendent and one seasonal employee. During the summer a seasonal office clerk and campground attendant are on staff.

Superintendent's Comments

Major repairs were made to the dam in 1992 after the water level was dropped. The spillway riser was repaired and the dam itself was raised in height an additional 15 feet. During this time a handicapped accessible boat dock was built at the main boat launch ramp.

Statistical Trends

Plum Orchard Wildlife Management Area	FY 2007	FY 2006	FY 2005
Attendance	56,612	54,556	55,190
Campsite Occupancy	7.88%	6.54%	7.60%
Operating Revenue	11,114	12,245	12,256
Operating Expenditures	83,325	81,060	78,799
Surplus/(Subsidy)	(72,211)	(68,815)	(66,543)
Self Sufficiency	13%	15%	16%

Three Year Revenue Comparison Plum Orchard Wildlife Management Area

Revenue	FY 2007	FY 2006	FY 2005
Boat Dock Rental	-	249	30
Boat Rental	2,579	2,979	3,000
Campsite Rental	7,426	7,624	7,798
Firewood Sales	370	338	415
TOTAL OPERATING REVENUE	11,114	12,245	12,256

Three Year Expense Comparison Plum Orchard Wildlife Management Area

Expense	FY 2007	FY 2006	FY 2005
Total Personal Services	46,504	44,689	44,285
Total Employee Benefits	18,413	18,016	16,635
CURRENT EXPENSE			
Office/Postal/Freight	380	189	369
Utilities	3,288	4,404	3,121
Telephone	1,177	924	1,029
Contract/Professional	-	1	-
Travel	389	9	229
Machine Rentals	202	167	312
Association Dues	50	50	50
Clothing/Household	1,340	1,285	3,120
Vehicle Maintenance Expense	3,867	2,547	3,816
Research/Education/Medical	2	-	-
Merchandise for Resale	687	909	893
Hospitality	-	39	-
Miscellaneous	50	259	451
Training	30	-	-
Miscellaneous Equipment	1,598	1,786	(1,215)
TOTAL CURRENT EXPENSE	13,049	12,569	12,175
REPAIRS AND ALTERATIONS			
Building Repairs/Alterations	1,097	2,331	1,232
Vehicle Repairs	138	584	2,500
Ground Improvements	2,613	1,448	985
Farm/Construction Equipment	843	752	448
Other Repairs/Alterations	668	670	539

Expense	FY 2007	FY 2006	FY 2005
TOTAL REPAIRS AND ALTERATIONS	5,359	5,786	5,703
EQUIPMENT			
Other Equipment	-	-	-
TOTAL EQUIPMENT	0	0	0
TOTAL OPERATING EXPENSES	83,325	81,060	78,799

Summary of the 2007 Big Game Harvest Figures

Parks, Recreation and Natural Resources Subcommittee Meeting

January 7, 2008

2007 Bucks-only Firearm Season

The 2-week, bucks-only firearm season traditionally opens on the Monday of Thanksgiving week. Hunters harvested 67,505 bucks during the 2007 season, which is up 2% from the 65,923 bucks taken in 2006. The increase in this year's buck harvest is primarily related to the carryover of deer from the harvest that took place in 2006 and an overall increase in deer populations within those counties targeted for herd expansion as identified in the DNR's *White-tailed Deer Operational Plan*.

This is the 10th year in a row that concurrent antlerless deer hunting has been permitted during portions of the buck season in selected counties. For the 6th year in a row, concurrent antlerless deer hunting took place during the entire 2-week buck season. Where adequate harvests of antlerless deer are occurring, Wildlife Biologists continue to report significant positive benefits associated with this regulation strategy, including a reduction in buck hunting pressure and an increase in antlerless deer hunting pressure.

While we have made significant progress in balancing the state's deer population with available habitat, a number of counties still support deer populations that are well above management objectives and beyond the capacity of the habitat to support in a sustainable fashion. Where this is the case, liberal antlerless deer harvest regulations will continue to be used in selected counties to reduce overall deer populations to desired levels. Where deer populations are below or approaching management objectives, we are recommending more conservative antlerless deer harvest regulation for the 2008 season.

2007 Antlerless Deer Season

Antlerless deer hunting opportunities were provided in a total of 41 counties, or portions thereof, during the 2007 season. These counties had a 21-day split antlerless deer season with a bag limit that ranged from 4 to 1, depending upon management objectives. The season included 2-weeks of concurrent antlerless deer hunting during the buck season on private land only, 6 days during the traditional antlerless deer season on public and private land, and 4 days in late December for antlerless deer hunting on private land only.

A total of 43,684 antlerless deer were harvested during the 2007 season. This figure is 11% above the 2006 harvest which was somewhat expected, as we had a more liberal antlerless season in place this past fall. Harvesting female deer during the antlerless deer season is the most important and effective tool used by wildlife managers, landowners and hunters to control deer numbers and bring deer populations in line with their carrying capacity. As this management strategy is accomplished, antler size, body weight and overall physical condition of the deer herd will improve. We will continue to recommend appropriate antlerless deer harvest regulations for the 2008 season. Where deer populations exceed management objectives, liberal

antlerless harvest regulations will be implemented to achieve management objectives. Where these populations are below management objectives, more conservative seasons will be put in place.

2007 Muzzleloader Deer Season

The 2007 muzzleloader deer harvest of 7,423 was 8% higher than the 2006 harvest. This increase in the muzzleloader harvest was somewhat expected, as more counties were open to antlerless deer season and either-sex muzzleloader hunting.

2007 Archery Deer Season

The 2007 archery deer harvest of 26,965 was 7% above the 2006 harvest.

2007 Bear Seasons

We are still process bear tags and harvest information is not yet available for the 2007 seasons.

2007 Wild Turkey Seasons

Spring turkey hunters harvested a total of 9,976 birds during the 2007 spring gobbler season. These numbers are 15% lower than the 2006 harvest of 11,735.

Preliminary figures show that fall turkey hunters harvested 1,491 birds during the fall 2007 season. This number should exceed 1,500 birds when the official count of game checking tags is complete. The harvest is currently 26% higher than the 1,186 recorded in 2006 and the highest in the past four years.