

**JOINT COMMITTEE ON
GOVERNMENT AND FINANCE**

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Interim Committee Attendance - Results

Tuesday, January 12, 2016 - 04:00 PM

Joint Committee on Government and Finance

Attended:

- Delegate Shott
- Delegate Nelson, E.
- Delegate Miller, C.
- Delegate Miley
- Delegate Cowles
- Delegate Boggs
- Speaker Armstead
- Senator Trump
- Senator Prezioso
- Senator Plymale
- Senator M. Hall
- Senator Kessler
- Senator Carmichael
- President Cole

Submitter:

Marlene

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(Speaker Armstead presides)

AGENDA
JOINT COMMITTEE ON GOVERNMENT AND FINANCE
January 12, 2016

2:00 - 3:00pm

Senate Finance Room

1. Approval of January 10, 2016 minutes

2. Committee Reports/Requests:

3. Monthly/Quarterly Reports Received:

Status Reports on Lottery, Unemployment Compensation Fund, General Revenue Fund & State Road Fund

(William Spencer, Director)

Workforce WV Unemployment Compensation Trust Fund Distribution

(Beth Carenbauer, Director)

Monthly/Quarterly Reports from PEIA, BRIM, Real Estate Report

(Mary Jane Pickens, Deputy Secretary, Department of Administration)

Department of Health & Human Resources, Medicaid Report & Medicaid Waiver, CHIP

(Cindy Beane, Acting Commissioner, WV Bureau for Medical Service)

Investment Management Board Distribution

(Craig Slaughter, Executive Director)

Workers' Compensation

(Mike Riley, Commissioner)

Board of Treasury Report Distribution

State Fire Marshall Report (Review and Recommendations on Volunteer and Part-Volunteer Fire Service)

List of Annual Reports filed

4. John McBrayer, Deputy Secretary of Department of Transportation – Response to Deloitte Audit

5. Other Business

6. Adjournment

JOINT COMMITTEE ON GOVERNMENT AND FINANCE

January 10, 2016

2:00 pm – 3:00 pm

Senate	House
Cole, Chair	Armstead, Chair
Carmichael	Cowles
M. Hall	Miller, C.
Trump	Nelson, E.
Kessler	Shott
Plymale	Boggs
Prezioso	Miley, Absent

Speaker Armstead presides:

Speaker Armstead: “The Committee will come to order please. The first item on our agenda today is the approval of the Interim Meetings for January 10th, 11th and 12th. President Cole is recognized.”

President Cole: “I move the approval of the interim meetings for January 10th, 11th and 12th, 2016.”

Speaker Armstead: “President Cole moves that the Interim Meetings be held on January 10th, 11th and 12th be approved. Is there discussion? All in favor say aye, opposed no. The ayes appear to have it, the ayes do have it. Declare the meetings are approved.”

Speaker Armstead: “President Cole is recognized for approval of the minutes of our November meeting.”

President Cole: “I move the minutes of the November 16, 2015 meeting of the Joint Committee on Government and Finance be approved.”

Speaker Armstead: “President Cole moves the minutes for the November meeting be approved. Is there discussion? If not, all of those in favor say aye, opposed no. The ayes appear to have it, the ayes do have it, the minutes are approved.”

Speaker Armstead: “Next on our agenda is the presentation of the WV Division of Highways Performance Audit. The firm Deloitte will be presenting, Rizwan Shah will be making the presentation accompanied by others from the firm. Mr. Shah.”

Mr. Shah: “Thank you and good afternoon. My name is Riz Shah, I’m a Director with Deloitte. I am the Capitol Asset Advisor of Practice and lead our public sector practice for infrastructure and capital projects. I am delighted to be here with you today to present the findings of our performance audit of the Department of Highways. Let me begin by first

saying a big thank you. Thank you first to the Department of Highways and the Auditor's Office. When we started this project they asked us how can we do this basically for effectively or efficiently from a cost and schedule perspective. We have dealt with a very ambitious audit plan and I will be honest with you I can count on my hands of the number of times that I have actually been able to achieve that ambitious audit plan but without the support and leadership here we would not be able to do that. Again a big thank you from myself and audit team as well.

Some of colleagues will be coming up here during the course of the presentation to focus on a couple of issues and explain them to you. So I will take a moment right now to introduce them if I may. First is Nick Gartner, Sam Betten, Matt DeSupri and Rashida MacMurray. I imagine it is a very large audit report and I presume that some of you may not have had a chance to review it in fully and detail.

To structure my presentation today, to basically be a page turn. So it is a large report in excess of 100 pages and I will kindly and respectfully direct you to certain pages and I will go through some explanation and again my name is Riz and please feel free to interrupt or cut me off any time. Our goal is to share with you a great deal of information and analysis that we have done in a very short period of time.

So if I may direct you first in the audit report onto page 6 and again I thought I would just take a minutes to recap the scope of our audit and how we were engaged. Just over the past summer the Joint Committee was seeking a qualified contract to do a performance audit of the Department of Highways ("DOH") for fiscal years 2013, 2014 and 2015. We also aware that May 2015, the West Virginia Blue Ribbon Commission on Highways ("Commission") had done a study and there was a number of recommendations that came out there but the key thing was about the concerns of our decreasing State Road Fund revenues and the deteriorating road and bridge conditions that are facing the state. That report should be used in conjunction with our report. We have recommended \$25-\$50 million in savings that can be achieved through various efficiencies. I will go through those recommendations this morning. But to be clear these are not to replace any recommendations of the Deloitte's Commission Report to more to further on focus more on the efficiencies that could be achieved.

As I mentioned to you the overall report is over 100 pages. As you can imagine we had to speak to a lot of people, review a lot of information. And understand there is a lot of inter dependency between our findings. So we challenged with how can we effectively convey all that in a structured faction. So I will take a quick minute to go overview how the report is structured and you don't do any page turning here but essentially the first 15 pages from page 5 to 21 is the Executive Summary. If you want to read something before you go to sleep at night those are the 15 pages you want to focus in on. Pages 22 to 58 is our actually analysis. So each one of the findings that we have in our Executive

Summary have essentially a page on it later on the report as well. On pages 59 to 66 are the results of case studies that our team had done. The case studies are there to valid some of the issues and concerns that were raised and also to support some of the savings that it may achieve through additional performances. Pages 67 to 77 is what we call our Business Performance Improvement Plan and essentially if you are going to implement these recommendations, what you should do and what sequence and who should govern that, and that is sort of a ten page plan that we think we are doing as well. Finally pages 78 to 98 has additional information regarding the documentation that we reviewed, who interviewed and some of the output of that analysis as well. Overview of our report of structure, I will get right into some of the discussion.

If I would have you turn to page 8 please of the report. Before you do that let me mention when we were, we did an audit plan exercise in early August. I am very proud to say we achieved it on time. Through September, October and November our team had visited ten district offices and headquarters and they are very familiar with your beautiful state. They transversed it for about ten weeks. Over that same period of time we collected information, we analyzed information and we compiled our report. Our report was submitted as a draft through mid-December. So if any of you have been involved in an audit report, it is a tremendous amount of work, I commend DOH in getting the team working together to get that done. We hope you will find the report valuable.

As I mentioned to you on page 8, just a quick overview. The DOH is experiencing increased traffic flows, aging infrastructure, and a decline in its annual funding but the percentage of unused funds is trending upwards at the end of fiscal year 2015. A bit of context, our team has done similar reviews for other DOT's across the country and also for federal agencies as well. The challenge we had around the infrastructure gap, the issues with aging infrastructure, increasing demands and declining revenue base, is something that is common place across all the states in our nation. There are some symptoms that are driven by other decisions taken a long time ago and it is our goal to help you understand what those are and what recommendations can be done to mitigate those. Obviously a big organization, over 4700 employees, as far as the state you had some 2.83% population growth through 2015. Population growth continues but at a slower rate at 1.40% projected over 2030. Of course with the shell gas and oil gas industry growth in the state, if you would look to the table on the right there, that has basic truck traffic of states and neighboring states and the light green bar on the extreme right just shows you that regardless of population growth are decreasing because of the industry boom, your road traffic and truck traffic are actually increasing, so it will put a greater burden on our road infrastructure here in the state. We have 7,000 bridges of average age of 40 years, so again we have that infrastructure gap issue. In terms of project of trends, we discovered a couple of things, 33% of projects were delayed during FY 13-15. The 30% annual underspend by bridge department, 35% of CORE plan monthly management reporting updates are completed on average. The CORE plan basically go ahead and

assess and execution plan for a project. It is a great tool but unfortunately it is not being done across the department. So again some key findings there. In terms of the asset base conditions we do want to compare WV to other states, you would be surprised to learn as the 6th largest maintained US highway system across the US. 36% of the roads are either poor or mediocre condition. 35% of WV bridges are in need of repair and replacement. 22% of bridges are functionally deficient. If we don't focus efforts in that area, this issue will continue to grow. On the right side you will see a very very high level of financial summary and I will point you to two numbers. The first is the number in the red the -3.4% and essentially we are showing that there has been a funding decrease for DOH between 2014 and 2015 down 3.4%. The next number the -12.0% is equally important. We are showing a decreasing rate of expenditures, the ability to achieve those plans over the same period of time. So basically what we are saying is we have decreasing funding, we have aging infrastructure and the actual ability to spend that money in a timely fashion is also decreasing so some of the needs here are for federal efficiency and performance improvement.

If I could have you turn to page 7 of the report. Here are the explicitly laid out audit objectives. I will read them in detail because all of our findings are broken down in these six audit objectives. The first one is to verify the extent to which the WV DOH employs an effective and efficient strategy to fund maintenance activities, construction projects and daily operating requirements. Objective No. 2, Assess the effectiveness and efficiency of the WV DOHs' maintenance, construction and reconstruction of roads, bridges and other system assets. No. 3, Assess the effectiveness and efficiency of the WV DOHs' allocation and use of vehicles and other equipment. 4th, Determine the extent of the DOHs uses sound procurement practices. No. 5, Assess the effectiveness, efficiency and economy of the WV DOHs' management of human resources in meeting the Division's mission. And No. 6, Assess the effectiveness and efficiency of the WV DOHs' organizational structure in meeting its mission. We performed our audit in accordance with the Generally Accepted Government Audit Standards as established by the Comptroller General of the United States. One issue we did not look at was fraud as we relied on management information to do this report in a timely fashion but if there were any issues that arose in the course of our review we certainly brought it to their attention.

If I could have you turn to page 9 of the report please. As I mentioned that we started out as very robust ambitious audit plan and we broke down the six focus areas, Funding; Maintenance, Construction and Reconstruction; Vehicles and Equipment; Procurement; Personnel and Organizational Structure. The six audit objectives there on the left. We start from there and then we had to go ahead and do site visits. We did eleven site visits as I mentioned district offices and headquarters. The team did 118 interviews and we had two workshops of external associations, those being the Asphalt Pavement Association of WV and the Contractors Association of WV, as external stakeholders. As a result of all that work, there were 30 key issues that were identified which I shall present to you this

afternoon, 59 recommendations which I will also present to you this afternoon, 4 business and consumer projects and 16 savings initiatives. So a tremendous amount of work in a short period of time and it's my goal to maintain a speed on that as soon as we can.

If I could have you turn your attention please to page 10 of the report. There was, imagine doing 118 interviews, there was a number of statements that were made and our goal was to make sure to validate whether these are indeed consistent throughout the organization or just related to that particular district. We thought we would highlight a few here just to get a sense of what we were hearing. I will start here from the top left corner here. Aging road conditions combined with decreased funding and manpower is an issue; there is a need to regionalize statewide equipment and parts contracts; the Districts need more autonomy when it comes to purchasing; it's like Headquarters thinks our people can be everywhere at once; the amount of money we spend on SRIC impacts everything we plan on doing later in the year; the general public doesn't understand how expensive it is to accomplish what we are tasked to do; I do believe that there are some current changes occurring that will ultimately necessitate significant organizational changes; it takes years to get rid of a bad employee; seven out of 10 times, the employee we want has accepted a job elsewhere during the amount of time it takes to approve them; every District should own its own paver; I do not specifically know the routine maintenance allocation funding equation; obtaining equipment parts is one of the biggest problems. So as you can see a myriad of issues that stretch across all of the audit areas.

May I have you turn to pages 88 through 98 of the report and I will speak more, you don't have to go through it in a great level of detail. But there were issues in each District that ultimately effects the efficiency of the overall department. For example, the oil and gas industry is very very hot in Districts 3, 6, 4 and 10. Coal is very predominant in Districts 2, 8 and 9. As a result of that Districts 5 and 7 are having a very difficult time in landing employees. District 1 said because of close proximity to the capitol, they felt they had extra scrutiny of their performance and District 9 for example, I think it said that because they are far away from the head office from HQ they felt sort of detached. So you can see a lot of issues there when you it comes down to performance improvement, there has to be a way to implement all those recommendations consistently. I'm sorry this is pages 88 to 98, I'm just giving a very quick summary of the issues. Overall my point of recommendation that we have to make had to be consistent across the organization and valid as well. That was our goal.

Now if I have you turn to page 12 of the audit report we are now getting into the actual meat of our analysis. The way we structured our findings are in a timely manner, the left side you will see a key issues as I mentioned there are 39 key issues, I am planning on taking you through each one of those this afternoon. We then have supporting evidence, you will see slides later on of the report, it will be summarized supporting evidence right here. We then have our recommendations and finally we have the savings, how to go

about achieving those savings. So just to give you a sense about what I mean about savings, if you turn to page 27 of the report, page 68 of the report. You will see down the middle column, you will see numbers 1, 2, 3, 4, 5, 6, 7, 8 up to 15. Those are the 15 initiatives that we are recommending from which DOH can achieve savings, efficiency and value improvement going forward. So I wanted to show you where those projects are because I go through the key issues you will understand how those, the evidence recommendations tie to the savings we can achieve in the future. So now I will turn you back to page 12 and I promise this will be last time we are shuffling pages for a little bit. I will go through the first key issue we determined. No. 1, Maintenance budgets are based on historical allocations rather than any agreed formula. So the perception within, outside DOH are that there are a very robust mechanical automated process for funding allocation. So our team spent quite a bit of time focusing on that, as a result of our audit, we are able to confirm the following: Senior leadership confirmed that no current formula is being utilized; DOH Administrative Operating Procedures state that a computer model should be used to allocate routine maintenance funds between Districts; and Senior leadership also confirmed that no allocation analysis has been performed since 2012. So to be clear there is a process in place it just hasn't been implemented since 2012 as according to the Operating Procedures of DOH. Our recommendations firstly to create a fair framework to allocate and distribute routine maintenance funds to each of the Districts and County Organizations; secondly, a baseline maintenance capital plan should be re-examined and revised periodically; and thirdly, Metrics for the allocation process should be transparent. So essentially we are saying as a major organization, it is quite simple to go ahead and develop a baseline, refer back to their processes and then go ahead and create a tool that could probably be a baseline for future maintenance allocations and you will see the savings 6, 7 and 8 on the right side.

Key Issue No. 2, over the past 3 fiscal years, statewide DOH expenditures have been less than the allocated annual budget. I think this warrants a little bit of discussion, so my colleague Rashida MacMurray is coming up here to talk about that in greater detail. Rashida. On this same site we found on page 25 of the report, if you would turn to that page as well.”

Ms. MacMurray: “Good afternoon again, my name is Rashida MacMurray. So one of the interesting things we found out from a funding standpoint is when you go through, we spent a lot of effort in going through looking at the budget items and allocations for the past three years. Historically which you will see there is different allocations for different items as you can see from the chart on the left hand side. You'll notice that we have broken them down and tried to do a study to really understand how things are being allocated each year. If you start on the left hand side you will notice that there are two bars in this chart. We have on the left hand side which is the allocated budget for each fiscal year which is in blue and the green is the expenditures for that particular year. Which you will notice is you will notice that the allocated budget for each year is significantly

higher than what actually is expenditures. You know in our discussions as we went through our findings, there is a lot of contributor to this factor. Some of the expenditures, you are looking from the year of the project there were dollars that was committed and they were allocated for that particular year for that fiscal year and due to that there might have been some differences within the project not being delayed, any retainage and then you will see the difference in that particular number. What we found historically from different jurisdictions, you will start to see the numbers trend down and instead of trending upwards and although there may be changes in the allocation each year of the money that DOH gets which you really want to find out is why are we not spending as close as possible and are there other efficiencies. So as we go through the other findings which you will find as we talk about technologies to get better insight into the projects so you will have a better understanding when the spending is. The reason why this is pretty critical and important is because as you're managing, you have expectations each year about what you are going to spend. If you are not spending that money or you are not figuring out a way to get it out the door, are there other things that you could be doing from a policy standpoint or technology standpoint, even working with the vendors. Are you getting really the best value because I think the key is what Riz really pointed out is, as jurisdictions have more things you need to do with limit budget, you want to have to be very efficient as possible and so you don't want to have delays in working on a project that might have been and should have been finished two years prior because you weren't able to get all the money allocated out the door. The second part of this if you will notice on the bottom left hand side you will see the actual expenditure by major allocations and that just gives you an idea from year to year how allocation funding is spent. I think one of the things when we were looking at the data and we looked at, if you would look at 2013, it was about 8%. If you look at 2014 its about 6.4% and you look at 2015 it's about 13.6% of the allocation. There is a couple of reasons that might change is that the fluidity of the planning process changes from year to year and then also what kind of contract administration things can make the project more efficient. Again going to the point of how you can distribute and get the allocation of the money out the door faster. We did not find an universal cost management reporting system and so because of that there is no place you can quickly monitor and do a what we like to say a dashboard so you can get a quick look at what is being spent, how quickly instead of having people generate lots of reports to put that together. You would be able to have use of the technology solution. In addition is when you are looking at unidentified sources of funding that is another area of why is that happening. You can drill down and try to get a better understanding of why are certain funds not being allocated and are they the same contracts, the same types of contracts that might be used. Another thing is that looking at federal funding it really is important to understand that federal funding sometimes the grants come with expiration dates and so if a project is delayed, there may be some jeopardy being able to continue to use the funding that was relied upon or allocated because it has not gone out the door from other delays. Overall as we talk about some organizational standpoint for the efficiencies standpoint, efficiency is why we keep kind of stressing that is that you may have a certain

dollar amount but the way you are able to use and move it through that is what really makes an organization very efficient in terms of being able to do more with less. So that is the theme that we are trying to really share with you this afternoon.”

Mr. Shah: “Thank you Rashida. Committee members I mentioned the page number over my shoulder is incorrect, the presentation I’m using here is about 25 pages, the report you have is about 100. So my goal is to sort of do page turn to the key pages so please disregard that. If you are not sure what page is, just yell at me and I’ll tell you where we are.

If I could have you turn back to page 12 of the report please, we will go into Key Issue No. 3, No implemented cost management process for routine maintenance budgets. So Standard Operating Procedures is to reallocate surplus funding for construction projects to the State Road Fund. The Surplus routine maintenance funding can be requested to remain at the District level and reallocated. Interviews indicated there is no consequences for departments/districts being over budget and conversely no incentive to be under budget. The recommendation is allow Districts to automatically maintain surplus maintenance funding. The idea of this autonomy they have a better understanding of what their needs are. If they get involved in Capital Planning Process they can do that more effectively in consultation with headquarters. Consider allowing Districts to retain a small portion of surplus funding on construction projects. Implement management reporting updates with each District on quarterly basis, discussing risks/opportunities and integrate with budget allocation process. So we are trying to say it’s a living process, the budget shouldn’t just be developed and put on a shelf. Now with the technology it is something that you kind of continually revisit and revalue and refine as you move forward. Key Issue

No. 4, No official process in place to monitor program funding. One example if something were the view age as great but perhaps not being fully utilizing it, is that a form can be generated to show the status of various current funds, however it has not been implemented as a process but the form is available. There is an unnecessary risk that is being generated by not constantly monitoring these funds as some federal funding have expiration dates. We are not saying that was an issue here at the DOH, we just seen that with other departments and wanted to make sure it doesn’t happen here. The STIP plan is difficult to predict as projects are constantly shifting. So that is sort of the forward looking plan for projects but given the movement and some of the underspend that becomes a bit of a challenge. To the recommendations, implementing a process to monitor all federal funding programs in terms of percent used, percent remaining, and expiration dates. Better usage of the W10A report would be beneficial for the organization as well.

Key Issue No. 5, No official process to monitor funding balances on inactive projects. Federal Highway Authority Guidelines implement a 2% maximum surplus on inactive projects. There is no process that exists to monitor state surplus funding on inactive

projects, however Regional Program Managers will monitor this information. So our recommendation is to match state funded projects to federal funded projects and allow a 2% maximum funding balance on inactive projects. We are trying to say if you start taking steps to sort of manage your budget you can start compartmentalizing what you can and cannot control. You control that 2% allocation you can start looking at other things that are slower moveable and other things that have greater variables and do better job of management and going forward. Implement a review process to monitor for surplus funding and integrate the project management/cost management systems and management reporting as well. You'll see throughout our recommendations a consistency around the process policy and technology. You know what is the fastest way for us to become a more efficient organization? You will that tie all the way through. So our overall findings of funding can be utilized more efficiency through better integrated planning and increased transparency throughout the organization. So those are our key issues on the funding side."

Speaker Armstead: "Mr. Shah, maybe it would be best at the end of each of these sections to see if there any questions. I believe Senator Plymale has a question regarding the funding issues."

Senator Plymale: "You went over the STIP but you just sort of breezed over it and I really couldn't understand what you were saying in terms of the plan. One of the things that I did hear is the fact that it's a moving target almost like it's done every year. They review it every year and it's a six year plan correct?"

Mr. Shah: "That is correct."

Senator Plymale: "Is that what other states do?"

Mr. Shah: "The STIP plan is supposed to be fore looking plan for all our projects. We highlighted it, there is an underspend, we are basically not spending money in the amount of time that we have allocated. If you don't sort of justify what is on a STIP plan year on year, it sort of becomes sort of something we are constantly refining but we are not looking at the actual underlying data. We are saying that we expect to see sort of more challenge more review of the STIP plan and you may see a different plan from year on year and you may see fraud shifting out as well. So we are trying to tie together both the .."

Senator Plymale: "Okay, did you look at that from a formula standpoint of saying that when, is it by district that you were looking at it?"

Mr. Shah: "Yes."

Senator Plymale: “Okay, so by district did you look at it to say that they were you know five months three days behind or they were just so far behind it was hard to ..”

Mr. Shah: “I look at detail to see how to deem the time and cost respective. We certainly did not look at every single project within each district. We did overall get a download of all the projects and looked kind of overall how are they delivering on time and on schedule. Some of the as I mentioned 33% delay early on.”

Senator Plymale: “So just follow me here for a second. When we have the regional plan that goes into the overall state plan. If your projects not on, if you don’t have a project in your district on that six year plan, you will not get funding for any of the things related to that, correct?”

Mr. Shah: “Yes that is correct.”

Senator Plymale: “From what I have seen, we have had a project in the district I represent, the only project we’ve had under the STIP plan and it is, I’m talking about district in terms of where I represent and Delegate Miller represent in other parts of the project they have had a lot of plans but in this case it’s probably four years past, its been probably on it for ten years. Did you find that pretty common?”

Mr. Shah: “Not common. I know some major projects are undertaken, and I don’t know all the projects very well but I will go into detail where there were some extensive delays. It could have been because of different site conditions, I think there was one. I wouldn’t say it was prevalent but delays overall and sort of project management has been a challenge. I’m not saying it’s because folks have the best intentions but we frankly didn’t find very many tools to help people manage their projects more effectively.”

Senator Plymale: “My final question. One of the things that I did not hear from you or at least I didn’t think I heard from you is that the DOT has come to us and segregated their money in terms of maintenance and you know for future projects and things like that. Did you find that those were part of the, for this year \$158M unspent or which one?”

Mr. Shah: “I can have the team look into it and tell you where the underspent predominately occurred. We’ll get it to you during the presentation.”

Senator Plymale: “Alright, thank you.”

Speaker Armstead: “Any further questions regarding the funding recommendations? Delegate Cowles.”

Delegate Cowles: “Thank you Mr. Speaker. Of the unused money that you spoke of in the three years that you looked at, did you look to find out, I know it was mentioned that some of that money was or could have earmarked or reserved for ongoing projects but did you look at that specific money to see what the status of that money is or where it is?”

Mr. Shah: “Yeah, when we presented it initially as a draft report now it’s highlighted to some of the money that is earmarked for projects that have been delayed because of procurement. It could be going through a public or higher partnership process as well so yes we did look at that. The reasons for some of the lack of spend varied from project to project so I wouldn’t say it’s consistent but overall we did see an underspent.”

Delegate Cowles: “Is that detailed? I know that it refers to page 25 and just briefly looking at it I wasn’t able to determine if like in the last year it was \$158M that was unused. Am I able to determine in here how much of that is earmarked for projects that were delayed and how much of it is rolling over to the next budget year? Is that detailed in here? Is that something..”

Mr. Shah: “I know it is something we looked at and I will find out which page number it is and get back to you. So guys let me know. I know it is something that we did look and we tried to figure out if there was really a root cause that was causing the underspent across the organization. If it’s not on our report, we will get it to you during the course of the presentation.”

Delegate Cowles: “Thank you. Thank you Mr. Speaker.”

Mr. Shah: “Thank you.”

Speaker Armstead: “Further questions? I just have one brief question. You mentioned that in terms of the federal funding that there are some federal funding that may be or have some deadlines on it, was there any evidence in fact that we had lost any federal funding because of that or is just because we are concerned that in the future if we don’t take steps we may?”

Mr. Shah: “That is correct. The idea was if we were tracking or monitoring actively, like it’s actually a project management tool, it’s less likely to happen. But no, we did not find an incident where that actually occurred.”

Speaker Armstead: “Alright. Thank you. Further questions regarding funding? Mr. Shah you may proceed to the next section.”

Mr. Shah: “Thank you, thank you very much. So I would have you to turn your attention to page 13 of the report. We are moving on to the topic of maintenance and construction.

Overall finding was that inefficient spending, variable spending on SRIC activities and delayed project delivery are key findings in the maintenance and construction focus area.

So Key Issue No. 1, that the funding allocation process should consider other operational metrics to address underspend. Similar to the question, that you had raised, we should look into which projects were underspending and why. The funding for bridge maintenance repair and reconstruction is, on average 30% more than the group has spent in a fiscal year. The overall expenditures are 13% below allocations which we assessed earlier. The maintenance formula as described in AOP, is not be utilized and the 2012 funding criteria does not take into account many critical metrics to consider when maintaining a roadway system. Those critical metrics are things that we identify as recommendations in our report. In terms of recommendations, revisit the basis for determining how different organization/districts are allocated funding. Improve project performance and execution to better utilize productions rates and adjust funding if target rates/goals are not met and consider funding factors beyond SRIC quota. So it goes into a bit more detail than you mentioned and I will come back to you which page all that analysis occurred on.

Key Issue No. 2. SRIC funding needs are unpredictable and impact DOH's ability to conduct general maintenance. So we heard it through our organization within the various districts that residents are very concerned about the fact that snow removal is not happening on a timely basis leading to damage roads, etc. Some of our evidence supporting that was that spending on an average for snow removal over the past three fiscal years evaluated has been 11% over budgeted amounts. If he winter of FY13, the average overrun in 19%. We see it another way, on an average of 11, if we took out the mild winter of FY13, the actual overrun is 19%. The range over all three fiscal years by district shows a low spend of 29% under budget and a high spend of 43% over budget. We are saying that a moving target year in and year out, because we know its seasonal, but the impact on each district varies quite a bit as well. So we need create a robust process around that to make sure something that we can manage and control to some degree. Our recommendation is to remove SRIC funding from the annual maintenance budget so that overrun or underrun amount do not affect plans for other maintenance activities. Recommendation was to have the state plan at 15% contingency for all SRIC activity budgets.

Key Issue No. 3. I'm going to hand that over to my colleague, Nick Gartner and if you would like to see the detailed behind what Nick is going to walk you through right now, that is on page 31 of the report."

Mr. Gartner: "Thanks Riz. My name is Nick Gartner and I work in the Capitol Asset Advisory Group at Deloitte and so this is a piece of the analysis that we wanted to show you from the maintenance and construction focus area. The reason why we wanted to

show this was because we felt like it really had a large impact on us as a team and it also links to some further analysis that we will show you a bit later in the presentation where we did a detailed into four major projects that the DOH has been running recently so this piece of analysis is focused on outsourced construction projects. Which we found that are often delayed and it also looks at the maintenance CORE plan which progress is not being updated regularly. The top half of the slide looks at the outsourced construction projects so we started this piece of analysis by looking at the data on the construction projects which we sourced from the construction department in DOH and as you can see the percentage of projects that were launched between FY13 and FY15, that are on track are in the blue bars on the chart and then the percentage of projects that were launched in those three years that are delayed are in the green bars. So what we found was on average was 33% of those projects are delayed which we thought was pretty large findings. We also realized at headquarters there is the goal of having 88% on-time projects so we thought with 33% of projects being delayed over that three year time frame only 67% are on-time. There is a number of different reasons as to why these projects are delayed and a lot of the reasons are projects specific but the common reasons we were seeing, one of the biggest one was schedule not being monitored throughout the project and there was some, majority of the delays were being experienced at the start of the project rather than the back end. We definitely noticed schedule delays occurring during the planning phase and also the award phase. So preconstruction essentially. One of the example process that was taking a lot of time to complete was the permitting process and so what we did was look into this a little further to try and understand what was happening. Overall it's really that there is a lack of performance monitoring occurring for these projects. Now we're aware that the DOH is implementing a system called OASIS right now so in lieu of implementation through our interviews with the districts there was a lot of feedback regarding the implementation of OASIS and how it may not going as well as it could be or as they intended. There are only certain districts that have OASIS for example right now not all staff have been trained in the use of OASIS. So OASIS will record a lot of information on the projects and you will be able to run reports on the status of projects but that is not going to solve all the issues associated with these project delays. What you also need in addition to OASIS is also standard project management methodology across the DOH. That typically includes standard project management processes that sit outside and around the system that is used for project management. For example with the permitting process I'm sure OASIS will hold a lot of permitting data regarding projects but for your project managers and districts to understand how to get the permitting task complete they need to have a standard process they can follow outside of the system. One of our main recommendation in this area is to implement a standard project management methodology with processes so all your project managers can be trained up on the same standard processes and you get consistent project management across the DOH. Another one of our recommendations to improve project performance monitoring is to implement a dedicated program management office in headquarters here in Charleston. This is quite a common solution for asset intensive organizations that are

running a lot of major projects is to have a dedicated program management office at headquarters and its sole role is to monitor the performance of projects and to report into executive management. Another one of our recommendations is also the actual capital project dashboard in addition to OASIS system. What I'll do is cover up maintenance CORE plan first before we talk about the Dashboard. The bottom line for the slide is actually at maintenance CORE plans and what we found there is that on average 35% of updates are being completed for maintenance CORE plans and submitted into the maintenance managers so we thought that the percentage completion was quite low and the way the completion is judged is just 50% of the fields are completed. We thought once again that if there is a better, stronger more rigorous performance management system processes in place than that should be able to improve the percentages of CORE plans be completed and reported into the maintenance managers. The next slide here is about the capital projects, page 32, this is the capital project dashboard which is another one of our recommendations to help improve the performance of projects. We understand that OASIS is going to be able to produce reports for management to review but with the implementation of a software system typically it is very hard to customize those reports to see what you want and also the data that will be produced there is purely related to projects whereas executive management quite often want to see additional things on top of project management performance. Things like health and safety progress, operational risk factors that are occurring. A lot of asset testing organizations right now are pulling a lot of their data from different systems together and analyzing all of that data together in a dashboard type setup such as this to identify trends occurring between different parts of the organization. We are recommending that the DOH set up one of these dashboards so the executive management is able to monitor the right metrics to require to understand how projects are being performed across the organization and where these issues are. There are a few examples of types of data that you would include in the dashboard there on the right hand side of the page."

Mr. Shah: "Thank you Nick. I would have you turn back to page 13 for the final key issue that we had identified here. Lack of project prioritization in STIP and CORE plans leads to man power, materials and effort being inefficiently deployed. We talked about the STIP plan a few minutes ago but the STIP highlights projects but there is no objective reasoning behind why project are included on the list. CORE plan projects are required to be spaced out and completed on various schedules, yet with-in the schedules there are no guidelines or processes determining which assets to work on first. So no prioritization.

Speaker Armstead: President Cole has a question."

President Cole: "This is for last gentleman. The permitting delays, permitting with who is that within the state or is that federal or is it within the agency was it with, I mean what specific permitting was slowing down the start of these projects?"

Mr. Gartner: “I believe it was associated with one of the major projects that we looked at in deep data which will come a bit later in the presentation. You will be able to see a bit detail on this specific permitting delays. I think it was a mixture of opening of federal and state and local projects generally. There was a specific example but I can’t recall what the project but it will come up later.”

President Cole: “Okay, thank you.”

Speaker Armstead: “Senator Plymale.”

Senator Plymale: “Would you explain on the dashboard example that you gave related to OASIS, there is no additional funding that is going to be needed, its part of what can be, there is only two entities here that really needed OASIS in WV and that was DOT because they have to fit in with the federal highways and everything that is what this is. The dashboard is something they can create on their own, correct?”

Mr. Shah: “Yes, they can. We did not get clear direction that the OASIS will have the functionality of that capability particularly with the implementation progress the idea is to get all the data into one platform and from there you can decide what you want analyzed and how you are going to manage what you analyzed.”

Senator Plymale: “One thing I did not hear from you all is I thought two to three years ago they implemented an asset management plan related to that. Was it only asset management of their equipment or was it project as well or did you even hear about that?”

Mr. Gartner: “I believe the asset management plan (he was away from mic and his voice is not clear). Whereas OASIS is more about project management.”

Senator Plymale: “Okay thank you.”

Speaker Armstead: “Senator Hall.”

Senator Hall: “I think this question might be something just spoke. When you are looking at projects and you are use the word processes, I would like to know what you mean by that and I will explain the reason for the question. Each project, say it is a bridge project or whatever, there are certain specs they call them that they have to go by when they send out a bid or whatever, did you look at those specifics? Did you look in terms of how a job is specified in terms of a detail of certain requirements?”

Mr. Shah: “Yes. Through each interview we asked if there were any specifications they felt were overly specific or leading to greater costs than were anticipated.”

Senator Hall: “What did they say?”

Mr. Shah: “The answer was it sort of depended. There were some examples and the guys probably know better from their interviews than I do. Where certain projects cost \$12M and they felt like it was overly specified, but to try and find other instances within that organization we weren’t able to do that. We didn’t find it to be consistent, we did find some issues that did occur. Going back to your initial question regarding processes we are talking about business processes, what to do, by when, who to get involved, who to escalate and if it’s sitting there in a document ...”

Senator Hall: “Back to this specifications because I do have some familiarity with this, I have a son who is an engineer who has dealt with a lot of this. There are certain specifications like did you look out, did you have any opportunity to compare the specifications for certain jobs relative to say surrounding states?”

Mr. Shah: “We did. Some of our colleagues on our team had worked for other DOTs in surrounding states. But no certain consistency was found about these being overly restrictive, overly burdensome as compared to other states.”

Senator Hall: “You didn’t find that?”

Mr. Shah: “Yeah, but again to very clear we had a three month window to do this review. We were relying on interviews and people pointing us in the right direction.”

Senator Hall: “And the Highway affirmed themselves?”

Mr. Shah: “That’s right.”

Senator Hall: “Did you interview any folks outside the highway deferment the contractors are the ones that are dealing with those specifications?”

Mr. Shah: “We did. We did interview the two associations that we did interview. The Asphalt Pavement Association and the Contractors Association, and they certainly said there were things that the DOH could do to manage them better they felt like or the longer response time to get responses to move the project along but not a whole lot if I can recall correctly regarding what they are doing is really restrictive or different than what other states are doing.”

Senator Hall: “Alright. Thank you.”

Speaker Armstead: “Delegate Shott.”

Delegate Shott: “Thank you Mr. Speaker. I have several questions regarding the component of this dealing with the outsource construction projects. Let me just run through them all at one time and maybe you can address them in a summary type answer. First of all, did you determine the overall percentage of outsource projects as compared with other states, in other words are we doing more projects in state with our in-house or are we outsourcing more than most division of highways, department of transportations? No 2, whether the projects that are outsourced, are the costs of those projects in line with similar projects in other states in the Mid-Atlantic region? Whether the delay, you said I think you said there were 33% delay, whether that affected the cost that was given as an estimate or a bid? And finally, did we have, were the delays caused by numerous change orders was that a component of that if so, do we have any data on what percentage of change orders accompanying these projects that I assume were competitively bid and we had a set price and the change orders would change that?”

Mr. Shah: “Okay. Let me go one by one. The first question regarding the percentage of projects that were outsourced by DOH, yes we do have that number. No we did not compare that to other states and I think it varies on what folks want to do in-house versus outsource and what that total cost is. No we did no compare that.”

Delegate Shott: “So what is that percentage?”

Mr. Shah: “Do we know that percentage. We will double check but the initial figure I saw at 90%. We will double check. The second thing was cost per project as compared to other states. I am an engineer myself. Every project is unique and has its own sort of issues and it’s really not apples to apples comparison. When I see statewide when people try to break it down to cost per pave mile for example, there is a lot of issues with that as well so I don’t put a great deal, what I find is that if you consistently said time and cost schedules and you look at costs performance and schedule performance, you need to measure yourself against yourself and your own objectives so I don’t put a lot of weight into that analysis. The question regarding delays, are they affecting those costs, I think the answer is yes. Certainly that is the case and if it’s not causing increase costs its causing underspend year on year. Certainly an issue of loss of value there and the fourth thing on change of claims, yes we do look at those numbers as well. They were high on some projects but that may be because of different site conditions, unplanned things as well. There were some claims but not a very large amount so I will tell you I have worked for other states and the claim numbers have been higher than what I have seen here at DOH. The claims number is much lower here than I have seen at other state DOHs.”

Delegate Shott: “For change orders?”

Mr. Shah: “For claims.”

Delegate Shott: “Alright thank you.”

Speaker Armstead: “Further questions.”

Mr. Shah: “Okay, thank you. I am informed that I want to give some time for questions so I am going to need to expedite this a little bit. I think the key thing is to talk about the business performance improvement plan. I put those findings into place so I am going to very quickly touch on each one of the key findings, I’ll pause there for any questions and we go then to greater detail. If I can have you turn to page 14 of your report, this is on vehicles and equipment. I will focus on the five key issues.

The first one, no official allocation process to districts for vehicles and equipment; No. 2, it is difficult to monitor rental equipment utilization; No. 3, many makes and models of vehicles and equipment exist in the fleet; No. 4, procuring equipment parts under statewide purchasing contracts can lead to long down times; and No. 5, many equipment types display a high level of idle time. In summary you have lots of different types of vehicles to maintain. Obvious your maintenance costs go up because you have different types of parts. If you centralize procurement for those parts sometimes district can get better pricing, get the part more quickly which should decrease idle time and just monitoring idle time more effective will result in reduced costs as well. So I pause very quickly but the goal is to get you through our recommendations. I’ll pause here for any questions.”

Speaker Armstead: “Are there any questions regarding vehicles and equipment? President Cole.”

President Cole: “That’s alright.”

Speaker Armstead: “Any questions regarding the vehicles and equipment?”

Mr. Shah: “Thank you. If you turn to page 15, this is on procurement. There are opportunities to increase efficiency by updating procurement processes currently mandating lowest price to reduce lead times. Key Issue No. 1, there are often delays between contract execution and project commencement. Issue No. 2, asphalt pricing trends vary depending on region of the state and we will talk about this one in bit more detail because I know this is something that is of interest to the committee. Issue No. 3, procurement cost-benefit analysis during the project development phase is limited regarding low bid vs. best value. Issue No. 4, the corporate purchasing manual is outdated and low purchasing approval thresholds can cause delays. And Issue No. 5, statewide supplier contracts may not provide the best value for money. On the subject of asphalt let me ask Nick to come up here and this is on page 43 of the report. Just so you know when we start out our audit plan, there is a lot of concern regarding are the cost for asphalt

consistently higher paid by DOH than neighboring states. We did some analysis here. I'll let Nick get into it."

Mr. Gartner: "Thanks Riz. Regarding asphalt pricing, so the main reason why this was part of the scope was because of a report that was done for the DOH back in 2013 by an organization named MLH and they looked into asphalt pricing throughout WV and how it compared to other states. The findings from that report actually came through and said that WV was actually paying a lot more money for their asphalt versus other states. So part of this scope, it was requested that we look into it again and to see what we thought about the issue. Based on data whether we think WV DOH is paying too much for asphalt. So what we did, step no. 1 was to actually take all the purchase orders for asphalt for 2015 and have a look at the process being paid for the different asphalt mixes so the chart on the top left of the page is that analysis. So you can see a broad range of asphalt mixes and prices per ton in the chart range from around about \$55 per ton up to just under \$90 per ton. The average of all of these points on the chart comes out to be about \$65 per ton. So we have that data and then move to the right hand side of the page where we have the average asphalt pricing by state per RS Means 2015. So RS Means is the leading construction cost data base. We used this for a lot of our analysis and so RS Means the actual return between 15, the average prices in the table there you can see next to the WV and so average price of RS Means returning is round about \$84 per ton. You can see some of the prices vary across the state there, you can see the West and the North, they are a bit higher compared to the South and the East and we feel that given the RS Means numbers include haulage, that haulage up the Ohio River is probably the reason why the pricing paid is higher in the North and the West in the state. So if we look at the bottom right of the page we have the RS Means data again for 2015 and how WV compares to other states. As you can see they are paying less money in a lot of cases compared to other states and the regional average around about the same as the regional average but two states there, Pennsylvania and Kentucky are paying a lower price. So our overall opinion on this issue is that we checked RS Means and we are pretty confident that WV is paying a reasonable price for asphalt compared to other states. It is falling within line, so we went back and we looked at the report from 2013 and where we come to our conclusion on this whole issue now that there are some numbers in the MLH report that skew the average price being paid in WV. The numbers are from 2009 and there are four districts in WV where the prices are very high as in they are \$120 to \$165 per ton. So there is four of those data points in the analysis and we feel like that's skewing the average price being paid across the state. We tried to dig a little deeper as to how those numbers ended up in the analysis. We wanted to see some purchase orders, something like that but there wasn't anything like that in the attachment to the report. It was just the table so our recommendations regarding the asphalt pricing. We understand that is pretty much just one supplier of asphalt in WV which we feel like is a problem. So if there any ways we can try to package up asphalt paving projects to encourage other suppliers to beat on those prices so we feel like there is an efficiency savings to be had in this area

because other suppliers might be encouraged to bid for a longer program of work, a larger program of work and so we also feel that monitoring RS Means data base to truly understand the current average price for asphalt that is in the market place would be another way to really improve the bid process so when bids are received and they are being reviewed then the DOH has the grounds standing of the asphalt pricing in the market place.”

Mr. Shah: “With that I will pause for any questions on procurement or on this topic as I know it one of great interest.”

Speaker Armstead: “At this time go ahead and let you complete the other two sections and then we will come back at just get any questions that we have or any of those three sections. We do have another meeting and it is scheduled for this room and some of the people on this committee but we would like to take another 10 or 15 minutes or so.”

Mr. Shah: “That will work. I’ll do my best. Thank you. If I could turn your attention to page 16 please. The topic is personnel. In revising key processes and enhancing performance incentives can better attract, train and utilize DOH’s key assets which is their staff.

Issue No. 1, lack of merit-based rewards and competitive salaries hinder the DOH’s ability to attract and retain a highly skilled workforce. That is page 16. Issue No. 2, the hiring processes are too inefficient to effectively fill the DOH’s personnel needs. On page 49 of the report you will see one example of the process flow. In terms of the current hiring processes and recommended hiring processes and by elimination of some of the steps that process can be undertaken much more effectively and quicker manner. Issue No. 3, staff performance management is reactionary and enhancements to the performance management framework are needed. Issue No. 4, time collection requires significant manual input and is labor intensive. Issue No. 5, training content and quality is sufficient; however, there are several opportunities for improvement in delivery and effectiveness.

I will pause for any questions or keep moving on. OK. On page 17, this is on the organizational structure. The overall finding is that the districts are reasonably aligned to encourage equal distribution of work, but improvements can be made. Issue No. 1, staffing quotas are not enforced and many districts and divisions remain over staffed. Issue No. 2, DOH can realize greater efficiency through consolidation of key departments. Issue No. 3, new risk management functions could be introduced or better defined. Issue No 4, the standardized organizational structure could be complimented with standard processes to increase resource sharing. When we presented this draft report before, the first issue regarding staff and quotas be slightly overstaffed, raised a lot of questions so we have done further analysis on that, that is on page 55. So we relied on DOH data to identify which districts remain slightly overstaffed and we can talk about that or we can talk at the conclusion of my presentation and that would be on page 55.”

Speaker Armstead: “Are there any questions regarding how the personnel organizational structure finding? Alright, see none, if you have any other comments you want to make.”

Mr. Shah: “I will just continue on if that is ok Chairman? On page 60 to 66 in the report are the detailed case study that the team conducted. It was on US 35, Corridor H, Tarico Heights Bridge and a Coal Field Expressway. As you will see there are certain issues regarding lack of funding. Issue regarding permitting not be applied for on a timely fashion. Value engineering focused on upfront savings, rather than the overall life cycle cost and some of the benefits like in the coalfield expressway partnering with the private sector to get them involved in the projects. Again, so when we did a check on these projects you will see red, yellow and green over my head there on the presentation. Some things are done very well, some things could certainly be improved but those areas of improvement by project are highlighted on page 60 to 66 of the report.

I would like to turn your attention to the business improvement plan and if you turn to page 68 of your report and this page is not in your report but I want to highlight quickly. There are four business improvement initiatives that we highlighted as recommendations to address all the findings. The first being the implementation of project management office, framework and reporting and that includes the PMO what we call project management office. You will see a standard project management methodology and a dashboard. That is all under business project no. 1.

Business project no. 2, is asset analytics and funding organization. How you use data and analytics and more robust sort of financial modeling and planning to do better maintenance planning and better asset management.

Project No. 3, is on sourcing and procurement. So what is the best value procurement strategies happen to improve our procurement processes and better utilize our equipment?

Business project No. 4, is on human capital improvement. I think better share resources, having improved our HR processes and how can we focus on operational risk and make sure that our talent pool are not creating risks for us.

On page 60 please remain on the page, you will see how this is structured is that we have the four projects on the left, the latest recap for you, the project description and what it entails, the issues addressed. The fifteen efficiency targets, you know you were seeing capital project change orders, you seen project overruns, we seen claims and providing crew utilization, all collectively to result in savings we identified a range there on the right hand side of the page. We also identified the ease of limitation of the efficiency as well.

On the next page, page 69 in yours, you will see a table summarizing all of these projects and what we are trying to highlight here is that there is certainly a range but this is not sort of a menu that you pick and choose and sort of get numbers. Reality is all the issues identified have great deal of interdependencies and lengths with one and other. But if collectively if these were performed and we talked about what sequences has to be executed on, the savings can be between \$25M and \$50M per year.

On page 74 of your report, you will see our recommended mandated one-year implementation time line. So how can all of these four issues be undertaken and what sequences to achieve this cost savings within one year. First and foremost there has to be some level of governance. In our experience when we do performance audit, if the savings aren't achieved it's because we haven't created accountability organization. Whether a stream committee or governance committee to make sure that any detail analysis is done and we push the buttons on the right project, right period of time and the savings are achieved. And that sort of is the yellow bar at the very top. Setting up the engagement committee and tracking those benefits. The four projects that are listed below the project management framework and reporting, asset analytics and funding organization, sourcing and procurement, and human capital improvement. And if I had more time I would I would take through each one of these projects, but essentially it is about reviewing what you currently have, designing new process and piloting and testing and implementing those. We believe this can all be done within one year.

On page 75, we even identified what should be done in the next 90 days to kick these off in a robust way. So we identified that we are here in mid-January and what should be undertaken in the next 90 days to kick off that one year implementation process.

On page 76 of your report there is one key page that I want to highlight which is around risks. Why have these initiatives not gone effectively for other DOTs across the country? And we rated the risk level also, just take 30 seconds to go through very quickly. One major risk, lack of support from executive management and/or key organization stakeholders to pursue the opportunities given the sensitive nature of the implementation program. Many times organization cultures is changed, we understand that but the savings outweigh that risk.

Business as usual activities are prioritized over implementation project activities by DOH staff members thus impacting progress made and achievement of benefits. So we are saying a great deal of commitment is needed. Implementation timeframes can be too aggressive, particularly in relation to the initial six month release, and the organization is not ready to adopt that change. That can impact how quickly you can get to that ultimate implementation all those savings. Lack of funding set aside to support the implementation, especially around technology. That could be an issue. Through more analysis, the savings could even go further up or maybe even further down once the implementation

costs are better understood. Lack of coordination from the districts and functional departments may lead to the erosion of the estimated benefits. So we need to have buy-in throughout the organization. And finally should there be a change of government or at the executive management level, the project may not be considered a priority. So in our experiences these are some reasons why these projects have not been implemented effectively.

On page 77 of your report, we identified what a governance structure could look like, implementation of these projects. I'll let you review that at your leisure. We by no means are saying this is the only way to implement a project through the governance, this is just a recommendation and we would be happy to engage in dialogue regarding who should be part of the steering committee, who should sponsor from the government side and how best to execute. Typically we need to have a project management office and project team that's been empowered and held accountable for implementing these issues.

And with that I will pause for questions and say thank you again for your time. I appreciate your patience. I know it was a lot to cover during a very short period of time. It's nearly four months of analysis but I be happy with any questions you may have."

Speaker Armstead: "Are there any questions? President Cole."

President Cole: "Going right back to the beginning of your presentation I think I heard you say that you didn't consider fraud, is that correct?"

Mr. Shah: "That is correct."

President Cole: "So you stumbled acrossed it, I mean explain it to me."

Mr. Shah: "If it was encountered in the course of our interviews or any analysis, we would absolutely bring it to the legislative office. We are aware that in the press there were some instances of fraud that happened historically actually prior to the fiscal year of review of our audit. But we are simply saying we do not focus on that issue because we were relying 100% on management information. And that was actually one of the methods we used to sort of expeditiously do our review as well."

President Cole: "Thank you."

Speaker Armstead: "Further questions? Delegate Shott."

Delegate Shott: "Thank you Mr. Speaker. Mr. Shah, if I heard you correctly, 90% of our projects are outsourced. My question is was there any effort made to determine whether we would ultimately save money by increasing staff and I realize that we are overstaffed

in some areas but by increasing the type of staff that would be needed to do these projects in house and whatever equipment would be used and what kind of recovery period would be involved to make up for that type of investment?”

Mr. Shah: “So if I understand you correctly, is that if we bring in more project management in house, would it improve our efficiency effectiveness?”

Delegate Shott: “Well or cost savings. My understanding is we hire an outside contractor, they must pay prevailing wage and a comparable worker in the Department of Transportation may not make that amount, even with the benefits and so forth. So my question is, we are outsourcing 90% of our projects, would be we save money if we beefed up our staff and did more of these projects in house?”

Mr. Shah: “I think the answer is potentially but the reality we heard from our interviews is that hiring is a big challenge. From identifying time, it is my need to finally qualified resource paying them the appropriate wage. It is very competitive market plus with the oil and gas industry impacts it as well. So I think philosophically there are some justification there but the reality in this state is quite different. I would also share with you that in neighboring state, the State of Virginia, they privatize many of their maintenance contracts and they hired an extra consultant come back and do audit and say why are they more expensive, you know outsourced than they are in sourced as well. And when they looked at sort of apples to apples they realized the cost is probably the same and it’s just about how you allocate the costs.”

Delegate Shott: “Okay. Thank you.”

Speaker Armstead: “Are there further questions? Senator Carmichael.”

Senator Carmichael: “I have one question. On page 68, you go over the, you categorize the difficulty of implementing each one of the initiatives and the associated savings, and you color coded it so forth. How was that determination made between, I mean you know easy, medium and difficult kind of thing?”

Mr. Shah: “I think the figures we developed were from some of the projects that we reviewed and the ease of implementation purely our sort of guidance base.”

Senator Carmichael: “I mean the, if you look at it from an easy perspective, you know the savings are relatively I mean not insignificant but there are what on the high side \$5.5M or something like that. Ok, I was just wondering if there was a more objective criteria but it is

Mr. Shah: “It’s subjective. The major investment required for technology and training and tools is what is going to drive more efficiencies.”

Senator Carmichael: “Ok. Thank you. Thank you Mr. Speaker.”

Speaker Armstead: “Further questions? If not, thank you Mr. Shah.”

Mr. Shah: “Thank you Mr. Speaker, thank you gentlemen.”

Speaker Armstead: “Before we entertain a motion to adjourn or see if there are any further business, you have with a booklet that contains the agencies’ reports. We will be meeting again on Tuesday so if you would like to take the booklet with you, you are welcome to do that, but please remember to bring it back. There won’t be additional copies. If you’d rather just leave it, it will be collected and be available for you Tuesday but if you do take it with you please remember to bring it to the meeting on Tuesday.

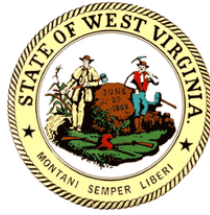
So further business to come before the Committee? If not, recognize President Cole for a motion to adjourn.”

President Cole: “Mr. Speaker, I move that we adjourn.”

Speaker Armstead: “President Cole moves that we adjourn. All those in favor say aye, oppose no. The ayes appear to have it, the ayes do have it, the meeting is adjourned.”

WEST VIRGINIA LEGISLATURE

Office of the Legislative Auditor



*Budget Division
Building 1, Room 314-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590*

304-347-4870

December 4, 2016

Executive Summary WV Lottery, Unemployment Trust, General Revenue and State Road Fund

- West Virginia Lottery as of November 30, 2015:
Gross profit for July 2015 - November 2015 was \$211.4 million.
- West Virginia Unemployment Compensation Fund as of November 30, 2015:
Total disbursements were \$ 22 million higher than last fiscal year. Overall ending trust fund balance was \$ 21 million lower on November 30, 2015, than on November 30, 2014.
- General Revenue Fund as of December 31, 2015:
The general revenue collections ended the sixth month of fiscal year 2015-2016 at 92% of the estimate for the year.
- State Road Fund as of December 31, 2015:
The state road fund collections ended the sixth month of fiscal year 2015-2016 at 106% of the estimate for the year.

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor



*Budget Division
Building 1, Room 314-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590*

MEMORANDUM

To: Honorable Chairmen and Members of the Joint Committee on
Government and Finance

From: William Spencer, CPA
Director Budget Division
Legislative Auditor's Office

Date: January 4, 2016

Re: Review of West Virginia Lottery Financial Information
As of November 30, 2015

We performed an analysis of the Statement of Revenues, Expenses and Changes in Fund Net Position for November 30, 2015, 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, table games and video lottery. These gross receipts totaled \$469 million for July - November 2015. Table games accounted for \$18.2 million of this total. Historic Resort Hotel video lottery and table games accounted for \$3.1 million of total gross receipts. Gross lottery revenue has decreased by 3.6% when compared with July - November of fiscal year 2014-2015. This number does not include commission and prize deductions. Gross profit (gross revenues minus commissions and prize costs) for July - November 2015 was \$211.4 million; for July - November of last fiscal year it was \$219.3 million. Expressed as a percentage, gross profit is 3.6% lower for fiscal year 2016 than for fiscal year 2015.

Lottery continued

Operating Transfers to the State of West Virginia:

A total of \$200,910,000.00 has been accrued to the state of West Virginia for fiscal year 2015-2016. This is on an accrual basis and may not correspond to the actual cash transfers made during the same time period. Amount 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	\$52,138,000.00
Community and Technical College	\$2,499,000.00
Department of Education	\$15,370,000.00
Library Commission	\$9,778,000.00
Higher Education-Policy Commission	\$6,177,000.00
Tourism	\$6,850,000.00
Department of Natural Resources	\$2,730,000.00
Division of Culture and History	\$4,063,000.00
Economic Development Authority	\$4,998,000.00
Department of Education and Arts	\$1,358,000.00
School Building Authority	\$9,000,000.00
<u>SUBTOTAL BUDGETARY TRANSFERS</u>	\$114,961,000.00

Lottery continued

Excess Lottery Fund

Economic Development Fund	\$9,494,000.00
Higher Education Improvement Fund	\$7,500,000.00
WV Infrastructure Council Fund	\$12,914,000.00
Higher Education Improvement Fund	\$9,584,000.00
Refundable Credit	\$318,000.00
General Purpose Fund	\$21,481,000.00
DHHR	\$20,000,000.00
State Park Improvement Fund	\$1,652,000.00
School Building Authority	\$9,496,000.00
Excess Lottery Surplus	\$0.00
WV Lottery Statutory Transfers	\$21,680,000.00
WV Racing Commission	\$661,000.00
Total State Excess Lottery Revenue Fund	\$114,780,000.00

Total Budgetary Distributions: \$229,741,000.00

Veterans Instant Ticket Fund \$268,000.00

Lottery continued

RACETRACK VIDEO LOTTERY TRANSFERS:	
Tourism Promotion Fund 1.375%	\$0.00
Development Office Promo Fund .375%	\$0.00
Research Challenge Fund .5%	\$0.00
Capitol Renovation and Improvement Fund .6875%	\$0.00
Parking Garage Fund .0625%	\$0.00
Parking Garage Fund 1%	\$0.00
Cultural Facilities and Cap. Resources Fund .5%	\$0.00
Capitol Dome & Cap. Improvements Fund .5%	\$0.00
Workers Compensation Debt Reduction Fund 7%	\$0.00
SUBTOTAL VIDEO LOTTERY TRANSFERS:	\$0.00
TOTAL TRANSFERS	*\$230,009,000.00

* CASH BASIS

Total Accrued last FY 2015:	\$123,920,000.00
Total Cash Distributions FY 2016:	\$230,009,000.00
Applied to FY 2015	\$123,920,000.00
Applied to FY 2016:	\$106,089,000.00
Accrued for FY 2016 as of November 30:	\$94,821,000.00

P.O. BOX 2067
CHARLESTON, WV 25327



PHONE: 304-558-0500
1-800-WVA-CASH

Earl Ray Tomblin
Governor

John Myers
Acting Director

MEMORANDUM

TO: Joint Committee on Government and Finance
FROM: John Myers, Acting Director *John Myers*
RE: Monthly Report on Lottery Operations
Month Ending November 30, 2015
DATE: December 16, 2015

This report of the Lottery operations is provided pursuant to the State Lottery Act.

Financial statements of the Lottery for the month ending November 30, 2015 are attached. Lottery revenue, which includes on-line, instant, video lottery sales, table games, and historic resort, was \$87,669,078 for the month of November.

Transfers of lottery revenue totaling \$38,115,635 made for the month of November to the designated state agencies per Senate Bill 160, Veterans Instant Ticket Fund, Racetrack Video Lottery Act (§29-22A-10), and the Racetrack Table Games Act (§29-22C-27). The amount transferred to each agency is shown in Note 10 on pages 18 and 19 of the attached financial statements.

The number of traditional and limited retailers active as of November 30, 2015 was 1,515 and 1,367 respectively.

A listing of the names and amounts of prize winners has been provided to the Clerk of the Senate, the Clerk of the House and Legislative Services.

If any member of the Committee has questions concerning the Lottery, please call me. Also if any members of the Legislature wish to visit the Lottery offices, I would be pleased to show them our facilities and discuss the Lottery with them.

JCM
Attachment

pc: Honorable Earl Ray Tomblin, Governor
Robert S. Kiss, Cabinet Secretary – Dept. of Revenue
John Perdue, Treasurer
Glen B. Gainer III, Auditor
Members of the West Virginia Lottery Commission

MEMORANDUM

TO: Joint Committee on Government and Finance
FROM: John Myers, Acting Director

RE: Monthly Report on Lottery Operations
Month Ending November 30, 2015

DATE: December 16, 2015

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JCM
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pc: Honorable Earl Ray Tomblin, Governor
Robert S. Kiss, Cabinet Secretary – Dept. of Revenue
John Perdue, Treasurer
Glen B. Gainer III, Auditor
Members of the West Virginia Lottery Commission



WEST VIRGINIA LOTTERY

STATE OF WEST VIRGINIA

**FINANCIAL STATEMENTS
-UNAUDITED-**

November 30, 2015

WEST VIRGINIA LOTTERY

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WEST VIRGINIA LOTTERY
STATEMENT OF NET POSITION
(In Thousands)
-Unaudited-

ASSETS	November 30, 2015	June 30, 2015
Current Assets:		
Cash and cash equivalents	\$ 121,502	\$ 163,592
Accounts receivable	36,248	33,929
Inventory	599	457
Other assets	1,712	1,894
Total Current Assets	<u>160,061</u>	<u>199,872</u>
Noncurrent Assets:		
Restricted cash and cash equivalents	668	1,130
Capital assets	53,093	47,763
Less accumulated depreciation and amortization	<u>(10,445)</u>	<u>(10,000)</u>
Net Capital Assets	<u>42,648</u>	<u>37,763</u>
Total Noncurrent Assets	<u>43,316</u>	<u>38,893</u>
Total Assets	<u>\$ 203,377</u>	<u>\$ 238,765</u>
Deferred outflows of resources	<u>\$ 1,099</u>	<u>\$ 1,099</u>
Total assets and deferred outflows	<u>\$ 204,476</u>	<u>\$ 239,864</u>
Current Liabilities:		
Accrued nonoperating distributions to the State of West Virginia	\$ 94,821	\$ 123,920
Estimated prize claims	15,558	15,911
Accounts payable	3,254	2,158
Other accrued liabilities	34,534	41,566
Total Current Liabilities	<u>148,167</u>	<u>183,555</u>
Deferred inflows	<u>\$ 2,153</u>	<u>2,153</u>
Net Position:		
Restricted by enabling legislation	33	1,130
Net Investment in capital assets	42,648	37,763
Unrestricted	<u>11,475</u>	<u>15,263</u>
Total Net Position	<u>54,156</u>	<u>54,156</u>
Total net position, liabilities, and deferred inflows	<u>\$ 204,476</u>	<u>\$ 239,864</u>

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

WEST VIRGINIA LOTTERY
STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND NET POSITION
FOR THE FIVE MONTH PERIOD ENDED NOVEMBER 30, 2015

(In Thousands)
-Unaudited-

	CURRENT MONTH		YEAR TO DATE	
	FY 2016	FY 2015	FY 2016	FY 2015
Lottery revenues				
On-line games	\$ 5,130	\$ 6,025	\$ 28,303	\$ 30,910
Instant games	6,647	6,483	40,690	41,509
Racetrack video lottery	42,836	44,285	229,879	239,835
Limited video lottery	28,774	29,477	148,752	151,704
Table games	3,553	3,762	18,197	19,588
Historic resort	729	423	3,095	2,836
	<u>87,669</u>	<u>90,455</u>	<u>468,916</u>	<u>486,382</u>
Less commissions				
On-line games	369	412	1,980	2,158
Instant games	465	454	2,848	2,906
Racetrack video lottery	23,501	24,297	126,121	131,583
Limited video lottery	14,099	14,444	72,889	74,335
Table games	1,505	1,594	7,711	8,300
Historic resort	317	226	1,470	1,393
	<u>40,256</u>	<u>41,427</u>	<u>213,019</u>	<u>220,675</u>
Less on-line prizes	2,510	2,935	13,972	15,139
Less instant prizes	4,424	4,310	26,939	27,499
Less ticket costs	100	(14)	603	613
Less vendor fees and costs	477	511	2,937	3,121
	<u>7,511</u>	<u>7,742</u>	<u>44,451</u>	<u>46,372</u>
Gross profit	<u>39,902</u>	<u>41,286</u>	<u>211,446</u>	<u>219,335</u>
Administrative expenses				
Advertising and promotions	365	260	1,887	2,173
Wages and related benefits	897	934	4,166	4,374
Telecommunications	81	30	428	372
Contractual and professional	196	590	1,638	2,118
Rental	25	25	154	119
Depreciation and amortization	89	129	445	731
Other administrative expenses	122	75	513	501
	<u>1,775</u>	<u>2,043</u>	<u>9,231</u>	<u>10,388</u>
Other Operating Income	<u>100</u>	<u>100</u>	<u>1,570</u>	<u>2,207</u>
Operating Income	<u>38,227</u>	<u>39,343</u>	<u>203,785</u>	<u>211,154</u>
Nonoperating income (expense)				
Investment income	(4)	79	126	206
Distributions to municipalities and counties	(564)	(578)	(2,915)	(2,973)
Distributions -capital reinvestment	(17)	(15)	(86)	(84)
Distributions to the State of West Virginia	(37,642)	(38,829)	(200,910)	(208,303)
	<u>(38,227)</u>	<u>(39,343)</u>	<u>(203,785)</u>	<u>(211,154)</u>
Net income	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Net position, beginning of period	<u>54,156</u>	<u>55,020</u>	<u>54,156</u>	<u>55,020</u>
Net position, end of period	<u>\$ 54,156</u>	<u>\$ 55,020</u>	<u>\$ 54,156</u>	<u>\$ 55,020</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, 2015

(In Thousands)

-Unaudited-

	2016	2015
Cash flows from operating activities:		
Cash received from customers and other sources	\$ 468,167	\$ 490,024
Cash payments for:		
Personnel costs	(4,014)	(4,242)
Suppliers	(3,480)	(4,958)
Other operating costs	(258,074)	(268,462)
Cash provided by operating activities	<u>202,599</u>	<u>212,362</u>
Cash flows from noncapital financing activities:		
Nonoperating distributions to the State of West Virginia	(230,009)	(208,091)
Distributions to municipalities and counties	(2,938)	(2,969)
Distributions to racetrack from racetrack cap. reinv. fund	(7,124)	(9,332)
Cash used in noncapital financing activities	<u>(240,071)</u>	<u>(220,392)</u>
Cash flows from capital and related financing activities:		
Purchases of capital assets	<u>(5,330)</u>	<u>(234)</u>
Cash flows from investing activities:		
Investment earnings received	<u>250</u>	<u>207</u>
Cash provided by investing activities	<u>250</u>	<u>207</u>
Increase (decrease) in cash and cash equivalents	(42,552)	(8,057)
Cash and cash equivalents - beginning of period	<u>164,722</u>	<u>151,109</u>
Cash and cash equivalents - end of period	<u>\$ 122,170</u>	<u>\$ 143,052</u>
Reconciliation of operating income to net cash provided by operating activities:		
Operating income	\$ 203,785	\$ 211,154
Adjustments to reconcile operating income to cash provided by operating activities:		
Depreciation and amortization	445	731
Changes in operating assets and liabilities:		
(Increase) decrease in accounts receivable	(2,319)	1,435
(Increase) decrease in inventory	(142)	41
(Increase) decrease in other assets	58	70
Increase (decrease) in estimated prize claims	(353)	(315)
Increase (decrease) in accounts payable	1,096	324
Increase (decrease) in other accrued liabilities	29	(1,078)
Cash provided by operating activities	<u>\$ 202,599</u>	<u>\$ 212,362</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 basis 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; Mega Millions®, a multi-state “jackpot” 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.

Video lottery is a self-activated video version of lottery games which is operated by an authorized licensee. 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 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 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. WV Lottery statutes have established specific requirements for video lottery and imposed certain restrictions limiting the licensing for operation of video lottery games to horse and dog racetracks in West Virginia (subject to local county elections permitting the same), limited licensed retailer areas restricted for adult amusement, and licensed historic resort hotels as defined by WV Code.

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

The legislation further stipulates the distribution of revenues from video lottery games, and requires any video lottery licensee to be responsible for acquiring the necessary equipment and bearing the risk associated with the costs of operating and marketing 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), and licensed historic resort hotels as defined by WV Code. Each licensee 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 licensee 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 in an external investment pool maintained by the West Virginia Board of Treasury Investments (BTI). The BTI pool is a 2a-7 like pool carried at amortized cost which approximates fair value of the underlying securities.

INVENTORY – Inventory consists of instant game tickets available for sale to approved Lottery retailers and is carried at cost as determined by the specific identification method.

OTHER ASSETS – Other assets consist of deposits restricted for payment of certain Multi-State Lottery Association activities and prepaid expenses.

CAPITAL ASSETS – The Lottery has adopted a policy of capitalizing assets with individual amounts exceeding \$25,000. These assets include leasehold improvements 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.

ADVERTISING AND PROMOTIONS – The Lottery expenses the costs of advertising and promotions as they are incurred.

COMPENSATED ABSENCES – The Lottery has accrued \$563,913 and \$573,313 of at June 30, 2015 and 2014, respectively, for estimated obligations that may arise in connection with compensated absences for vacation at the current rate of employee pay. Employees fully vest in all earned but unused vacation. To the extent that accumulated sick leave is expected to be converted to benefits on termination or retirement, the Lottery participates in another postemployment benefits plan (see Note 16).

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

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

NET POSITION – Net position is presented as restricted, unrestricted and net investment in capital assets which represent the net book value of all property and equipment of the Lottery. When an expense is incurred for purposes for which both restricted and unrestricted net position are available, restricted resources are applied first.

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, 2015 the carrying amounts of deposits (overdraft) with financial institutions were \$406 thousand with a bank balance (overdraft) of \$467 thousand. Of this balance \$250 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):

	November 30, 2015	June 30, 2015
Deposits with financial institutions	\$ 406	\$ 477
Cash on hand at the Treasurer's Office	14,955	21,525
Investments with BTI reported as cash equivalents	106,809	142,720
	\$ 122,170	\$ 164,722

The deposits with the BTI are part of the State of West Virginia’s consolidated investment cash liquidity pool. 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.

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
-Unaudited-

NOTE 4 – CAPITAL ASSETS

A summary of capital asset activity for the month ended November 30, 2015 is as follows (in thousands):

Capital Assets:

	Historical Cost At June 30, 2015	Additions	Deletions	Historical Cost At November 30, 2015
Construction in Progress	\$ 1,090	\$ 5,330	\$ -	\$ 6,420
Buildings	38,084	-	-	38,084
Land	1,434	-	-	1,434
Improvements	260	-	-	260
Equipment	6,895	-	-	6,895
	<u>\$ 47,763</u>	<u>\$ 5,330</u>	<u>\$ -</u>	<u>\$ 53,093</u>

Accumulated Depreciation:

	Historical Cost At June 30, 2015	Additions	Deletions	Historical Cost At November 30, 2015
Buildings	\$ 3,093	\$ 397	\$ -	\$ 3,490
Improvements	260	-	-	260
Equipment	6,647	48	-	6,695
	<u>\$ 10,000</u>	<u>\$ 445</u>	<u>\$ -</u>	<u>\$ 10,445</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, the HOT LOTTO® game, and the MEGA MILLIONS® jackpot game on behalf of participating state lotteries. MUSL is currently comprised of 33 member state lotteries, including the District of Columbia and the United States Virgin Islands. MUSL is managed by a Board of Directors, which is comprised of the lottery directors or their designee from each of the party states. The Board of Directors' responsibilities to administer the Multi-State Lottery Powerball, Hot Lotto, and Mega Millions games are performed by advisory committees or panels staffed by officers and independent contractors appointed by the board. These officers and consultants serve at the pleasure of the board and the board prescribes their powers, duties and qualifications. The Executive Committee carries out the budgeting and financing of MUSL, while the board contracts the annual independent audit. A copy of the audit may be obtained by writing to the Multi-State Lottery Association, 1701-48th Street, Suite 210, West Des Moines, Iowa 50266-6723.

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®, HOT LOTTO® and MEGA MILLIONS® is 50% of each drawing period's sales, with minimum jackpot levels. The Lottery's revenues and expenses from MUSL games participation for the month ended November 30, 2015 and fiscal year-to-date is as follows:

WEST VIRGINIA LOTTERY
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NOTE 5 - PARTICIPATION IN THE MULTI-STATE LOTTERY (continued)

<u>Revenues</u>	<u>Month</u>	<u>Y-T-D</u>
Powerball	\$ 1,957,741	\$ 12,364,719
Hot Lotto	393,400	2,091,017
Mega Millions	1,007,873	4,602,451
Total	\$ 3,359,014	\$ 19,058,187
<u>Expenses (Prizes)</u>	<u>Month</u>	<u>Y-T-D</u>
Powerball	\$ 980,353	\$ 6,191,526
Hot Lotto	196,704	1,045,662
Mega Millions	504,194	2,305,123
Total	\$ 1,681,251	\$ 9,542,311

MUSL places a percentage of game sales from each game in separate prize reserve funds that serve as a contingency reserve to protect the respective MUSL Product Groups from unforeseen prize liabilities. 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. The applicable sales percentage contribution as well as the reserve fund limit for the MUSL games is as follows:

	<u>PowerBall</u>	<u>Hot Lotto</u>	<u>Mega Millions</u>
Required Contribution (% of sales)	2%	3%	1%
Reserve Fund Cap	\$125,000,000	\$9,000,000	\$45,000,000

At November 30, 2015, the Lotteries share of the prize reserve fund balances were as follows:

Game	<u>Total Prize Reserve</u>	<u>Lottery Share</u>
Powerball	\$ 109,260,312	\$ 1,859,155
Hot Lotto	8,112,232	561,185
Mega Millions	36,894,919	544,873
Total	<u>\$ 154,267,463</u>	<u>\$ 2,965,213</u>

Lottery prize reserves held by the MUSL are invested according to a Trust agreement the Lottery has with MUSL outlining investment policies. The policies restrict investments to direct obligations of the United States Government, perfected repurchase agreements, and obligations issued or guaranteed as to payment of principal and interest by agencies or instrumentalities of the United States Government, and mutual funds of approved investments. The average portfolio maturity is never more than one year, except that up to one third

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NOTE 5 - PARTICIPATION IN THE MULTI-STATE LOTTERY (continued)

of the portfolio may have an average maturity of up to two years. The maximum maturity for any one security does not exceed five years.

The interest earned on prize reserve fund monies is used to pay MUSL operating expenses and any amounts over and above that are credited to an unreserved fund. The Lottery records this as interest when earned. This fund had a balance of \$15,385,415 at November 30, 2015, of which the Lottery's share was \$1,590,485.

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 and has been amended again by HB 101 as passed during the first extraordinary session of 2014. For a complete summary of the impacts of HB 101, see Note 11 titled "Summary Impact of Recent Legislation." Initially, four percent (4%) of gross terminal revenue is allocated for lottery administrative costs. Sixty-six percent (57%) of net terminal revenue (gross less 4%) is allocated in lieu of commissions to: the racetracks (46.5%); other private entities associated with the racing industry (8.7%); and the local county and municipal governments (2%). The remaining revenues (42.8%) 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 10 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, 49% of net terminal revenue is allocated in lieu of commissions to: the racetracks (42%); other private entities associated with the racing industry (5%); and the local county and incorporated municipality governments (2%).

WEST VIRGINIA LOTTERY
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NOTE 6 - RACETRACK VIDEO LOTTERY (continued)

The remaining net terminal revenue (51%) is allocated for distribution to the State as specified in the Racetrack Video Lottery Act or subsequent State budget, as described in Note 10.

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 Ohio, Rhode Island, Maryland, 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 .74% of the amount wagered. A summary of racetrack video lottery revenues for the month ended November 30, 2015 and fiscal year-to-date follows (in thousands):

	Current Month		Year-to-Date	
	2016	2015	2016	2015
Total credits played	\$ 473,116	\$ 501,976	\$ 2,546,863	\$ 2,706,232
Credits (prizes) won	(424,153)	(450,595)	(2,284,658)	(2,427,652)
Promotional credits played	(6,109)	(7,067)	(32,215)	(38,590)
MWAP Contributions	(18)	(29)	(111)	(155)
Gross terminal income	42,836	44,285	229,879	239,835
Administrative costs	(1,714)	(1,771)	(9,195)	(9,593)
Net Terminal Income	41,122	42,514	220,684	230,242
Less distribution to agents	(23,501)	(24,297)	(126,121)	(131,583)
Racetrack video lottery revenues	<u>\$ 17,621</u>	<u>\$ 18,217</u>	<u>\$ 94,563</u>	<u>\$ 98,659</u>

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

	November 30, 2015	Year-to-Date
State Lottery Fund	\$ 12,337	\$ 66,205
State Excess Lottery Revenue Fund	5,284	28,358
Capital Reinvestment Fund	-	-
Total nonoperating distributions	<u>\$ 17,621</u>	<u>\$ 94,563</u>

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

WEST VIRGINIA LOTTERY
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NOTE 7 - LIMITED VIDEO LOTTERY (continued)

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, 2015 and fiscal year-to-date follows (in thousands):

	Current Month		Year-to-Date	
	2016	2015	2016	2015
Total credits played	\$ 344,064	\$ 353,739	\$ 1,780,811	\$ 1,808,894
Credits (prizes) won	(315,290)	(324,262)	(1,632,059)	(1,657,190)
Gross terminal income	\$ 28,774	\$ 29,477	\$ 148,752	\$ 151,704
Administrative costs	(576)	(589)	(2,975)	(3,034)
Gross Profit	28,198	28,888	145,777	148,670
Commissions	(14,099)	(14,444)	(72,889)	(74,335)
Municipalities and Counties	(564)	(578)	(2,915)	(2,973)
Limited video lottery revenues	\$ 13,535	\$ 13,866	\$ 69,973	\$ 71,362

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 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. Transfer three 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 amounts, hereinafter referred to as the net amounts in the Racetrack Table Games Funds as follows:

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
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- 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 Excess Lottery Revenue Fund.

The cash transferred to the State Excess Lottery Revenue Fund in the current month is included in Note 10- Nonoperating Distributions to the State of West Virginia. The table games adjusted gross receipts for the month and year ended November 30, 2015 were \$10,150,968 and \$51,990,734, respectively. The following table shows the month and year totals of the privilege tax and the accrued distributions (in thousands) to be transferred in the subsequent month:

	Current Month		Year-to-Date	
	2016	2015	2016	2015
Table Games Privilege Tax	\$ 3,553	\$ 3,762	\$ 18,197	\$ 19,588
Interest on Table Games Fund	-	-	2	1
Administrative costs	(305)	(322)	(1,560)	(1,679)
Total Available for Distribution	<u>3,248</u>	<u>3,440</u>	<u>16,639</u>	<u>17,910</u>
<u>Less Distributions:</u>				
Racetrack Purse Funds	228	242	1,170	1,259
Thoroughbred & Greyhound Development Funds	183	193	936	1,007
Racing Association Pension Plan	89	95	458	493
Municipalities/ Counties	<u>1,005</u>	<u>1,064</u>	<u>5,147</u>	<u>5,541</u>
Total Distributions	<u>1,505</u>	<u>1,594</u>	<u>7,711</u>	<u>8,300</u>
Excess Lottery Fund	<u>\$ 1,743</u>	<u>\$ 1,846</u>	<u>\$ 8,928</u>	<u>\$ 9,610</u>

WEST VIRGINIA LOTTERY
NOTES TO FINANCIAL STATEMENTS
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NOTE 9 – HISTORIC RESORT HOTEL

In 2009, the Legislature passed Senate Bill 575 which permits video lottery and table games at a licensed historic resort hotel which is defined as “a resort hotel registered with the United States Department of the Interior as a national historic landmark in its National Registry of Historic Places having not fewer than five hundred guest rooms under common ownership and having substantial recreational guest amenities in addition to the gaming facility.”

Historic Resort Video Lottery

According to Senate Bill 575, thirty six percent (36%) of gross terminal income is allocated to Historic Resort Hotel Fund and seventeen percent (17%) of gross terminal income is allocated to the Human Resource Benefit Fund. The remaining forty-seven percent (47%) of gross terminal income is then subject to a ten percent (10%) surcharge which is allocated to separate capital reinvestment funds for each licensed historic resort hotel. The remaining forty-two and three-tenths percent (42.3%) of gross terminal income is retained by the historic resort hotel.

A summary of historic resort hotel video lottery revenues for the month ended November 30, 2015 and fiscal year-to-date follows (in thousands):

	<u>2016</u>	<u>2015</u>	<u>2016</u>	<u>2015</u>
Total credits played	\$ 4,536	\$ 5,141	\$ 25,036	\$ 26,562
Credits (prizes) won	(4,118)	(4,711)	(22,902)	(24,397)
Promotional credits played	(63)	(117)	(305)	(374)
MWAP Contributions	-	-	-	-
Gross terminal income	<u>355</u>	<u>313</u>	<u>1,829</u>	<u>1,791</u>
Capital reinvestment	(17)	(15)	(86)	(84)
Excess Lottery Fund	(3)	(3)	(16)	(16)
Administrative costs	(19)	(17)	(99)	(97)
Hotel commissions	<u>(150)</u>	<u>(132)</u>	<u>(774)</u>	<u>(758)</u>
Net terminal income	166	146	854	836
Historic Resort Hotel Fund	105	93	543	532
Human Resource Benefit Fund	61	53	311	304

WEST VIRGINIA LOTTERY
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NOTE 9 – HISTORIC RESORT HOTEL (continued)

Historic Resort Table Games

Each historic resort hotel licensee is subject to a privilege tax of thirty five percent (35%) of adjusted gross receipts, of which thirty percent (30%) is deposited directly into the Historic Resort Hotel Fund and five percent (5%) is deposited directly into the Human Resource Benefit Fund. The historic resort hotel table games adjusted gross receipts for the month and year ended November 31, 2015 were \$1,069,202 and \$3,616,938, respectively.

The following table shows the month and fiscal year -to- date totals of the privilege tax and the accrued distributions (in thousands) to be transferred in the subsequent month:

	<u>2016</u>	<u>2015</u>	<u>2016</u>	<u>2015</u>
Table games privilege tax	\$ 374	\$ 110	\$ 1,266	\$ 1,045
Administrative Costs	<u>(48)</u>	<u>(14)</u>	<u>(163)</u>	<u>(134)</u>
Total Available for Distribution	326	96	1,103	911
Historic Resort Hotel Fund	273	80	922	762
Human Resource Benefit Fund	53	16	181	149

Historic Resort Hotel Fund

Of the monies deposited into the Historic Resort Hotel Fund, fifteen percent (15%) is allocated for lottery administrative costs. The remaining Historic Resort Hotel Fund net income (gross deposits less 15%) is distributed as follows:

- 1) Eighty-six percent (86%) is paid to the State Excess Lottery Revenue Fund;
- 2) Four percent (4%) is paid to the county where the gaming facility is located;
- 3) Two and one-half percent (2.5%) is paid to the municipality where the gaming facility is located as prescribed by statute;
- 4) Two and one-half percent (2.5%) is divided and paid in equal shares to the remaining municipalities in the county where the gaming facility is located;
- 5) Two and one-half percent (2.5%) is divided and paid in equal shares, to each county commission in the state where the gaming facility is not located;
- 6) Two and one-half percent (2.5%) is divided and paid in equal shares, to each municipality in the state not already receiving a distribution as described in item five (5) or item six (6) above.

A summary of Historic Resort Hotel Fund revenues and related distributions is as follows (in thousands):

	<u>Current Month</u>	<u>Year-to-Date</u>
Historic Resort Hotel Video Lottery	\$ 105	\$ 543
Historic Resort Table Games	273	922
Interest on Historic Resort Hotel Fund	-	-
Historic Resort Hotel Fund Net Income	<u>378</u>	<u>1,465</u>
Municipalities/ Counties	53	204
Excess Lottery Fund	325	1,261
Total Distributions	<u>\$ 378</u>	<u>\$ 1,465</u>

WEST VIRGINIA LOTTERY
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NOTE 10- 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, 2016 the State Legislature budgeted \$136,319,575 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, \$1,000,000, and \$500,000 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 \$5,300,000 per month for the first ten months of each fiscal year. 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. For the month ended November 30, 2015 the Lottery has accrued additional distributions of \$94,821,357. The Lottery is a non-appropriated state agency and therefore does not have a budget adopted by the Legislature.

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, 2015</u>	<u>Year-to-Date</u>
<u>State Lottery Fund:</u>		
Community and Technical College	\$ 500	\$ 2,499
Bureau of Senior Services	6,003	52,138
Department of Education	2,190	15,370
Library Commission	1,393	9,778
Higher Education-Policy Commission	880	6,177
Tourism	976	6,850
Natural Resources	389	2,730
Division of Culture & History	579	4,063
Department of Education & Arts	193	1,358
Economic Development Authority	1,000	4,998
School Building Authority	1,800	9,000
Total State Lottery Fund	<u>\$ 15,903</u>	<u>\$ 114,961</u>

**WEST VIRGINIA LOTTERY
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State Excess Lottery Revenue Fund:

Economic Development Fund	\$ 1,899	\$ 9,494
Higher Education Improvement Fund	1,500	7,500
General Purpose Account	5,371	21,481
Higher Education Improvement Fund	2,396	9,584
State Park Improvement Fund	413	1,652
School Building Authority	1,899	9,496
Refundable Credit	-	318
WV Racing Commission	165	661
WV Department of Health and Human Resources	-	20,000
Teacher's Retirement Savings	-	-
Division of Justice and Community Services	-	-
WV Lottery Statutory Transfers	5,420	21,680
Excess Lottery Surplus	-	-
West Va. Infrastructure Council	3,079	12,914
	\$ 22,142	\$ 114,780
Total Budgetary distributions:	\$ 38,045	\$ 229,741
Veterans Instant Ticket Fund	\$ 71	\$ 268
Total nonoperating distributions to the State of West Virginia (cash basis)	\$ 38,116	\$ 230,009
Accrued nonoperating distributions, beginning	(95,295)	(123,920)
Accrued nonoperating distributions, end	94,821	94,821
	\$ 37,642	\$ 200,910

NOTE 11 – LEASES

The Lottery leases, under a cancelable operating lease, its office and warehouse facilities. The Lottery also leases various office equipment under agreements considered to be cancelable operating leases. Rental expense for the fiscal year-to-date ended November 30, 2015 and November 30, 2014 approximated \$154,027 and \$119,117 respectively.

The Lottery leases office space under the terms of a non-cancellable operating lease to various tenants. Rental revenues for the fiscal year-to-date ended November 30, 2015 and November 30, 2014 approximated \$206,986 and \$431,489 respectively.

WEST VIRGINIA LOTTERY
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NOTE 12 – RESTRICTED NET POSITION

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. Contributions to the fund for fiscal years ending June 30, 2015 and June 30, 2014 were as follows:

	June 30, 2015	June 30, 2014
Beginning balance	\$ 1,397	\$ 1,640
Additions		
Legislative Appropriations		
Deductions		
Asset acquisition	(267)	(243)
Surplus of excess funds		
Ending balance	\$ 1,130	\$ 1,397

NOTE 13 – COMMITMENTS

For the years ended June 30, 2015 and 2014 the Lottery Commission has not designated any unexpended administrative funds for the acquisition of capital assets. As of June 30, 2015 and 2014, \$8,416,061 and \$7,653,177, respectively, are included in unrestricted net position and net investment in capital assets for this purpose.

NOTE 14 - 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, 4101 MacCorkle Ave. S.E., Charleston, West Virginia 25304-1636.

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

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NOTE 14 - RETIREMENT BENEFITS (continued)

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.

Covered employees hired prior to July 1, 2015 are required to contribute 4.5% of their salary to the PERS. Covered employees hired on or after July 1, 2015 will contribute 6.0% of their salary to the PERS Tier II. The Lottery is required to contribute 13.5% 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 month ending November 30, 2015 and fiscal year-to-date are as follows (in thousands):

	November 30, 2015	Year-to-Date
Lottery contributions	\$ 27	\$ 136
Employee contributions	81	426
Total contributions	\$ 108	\$ 562

NOTE 15 - 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 has 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.

WORKERS' COMPENSATION INSURANCE

The Lottery carries workers compensation insurance coverage through a commercial insurance carrier. The commercial insurance carrier is paid a monthly rated premium to provide compensation for injuries sustained in the course of employment.

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 agencies, institutions of higher education, 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

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employees and level of compensation. Coverage under these programs is limited to \$1 million lifetime for health and \$10,000 of life insurance coverage.

NOTE 15 - RISK MANAGEMENT (continued)

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 16– OTHER POSTEMPLOYMENT BENEFITS (OPEB)

The Lottery participates in the West Virginia Other Postemployment Benefits Plan (OPEB Plan) of the West Virginia Retiree Health Benefit Trust Fund (Trust), a cost-sharing multiple-employer defined benefit postemployment healthcare plan administered by the West Virginia Public Employee Insurance Agency (WVPEIA). The OPEB Plan provides retiree post-employment health care benefits for participating state and local government employers. The provisions of the Code of West Virginia, 1931, as amended (the Code), assigns the authority to establish and amend benefit provisions to the WVPEIA board of trustees. The WVPEIA issues a publicly available financial report that includes financial statements and required supplementary information for the OPEB Plan. That report may be obtained by writing to Public Employees Insurance Agency, 601 57th Street, South East, Suite 2, Charleston, West Virginia, or by calling 1-888-680-7342.

Funding Policy

The Code requires the OPEB Plan bill the participating employers 100% of the annual required contribution (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) of the plan over a period not to exceed thirty years. State of West Virginia plan employers are billed per active health policy per month.

The ARC rate is \$389 and \$270 per employee per month for the years ending June 30, 2015 and 2014 respectively. Through June 30, 2015 and 2014, the Lottery has paid premiums of \$287,861 and \$291,750. As of June 30, 2015 and 2014, the Lottery has recorded a liability of \$4,631,089 and \$4,318,481 on its balance sheet for OPEB.

**SCHEDULE OF REVENUES AND NET REVENUES OF THE
 LOTTERY FUND AND EXCESS LOTTERY FUND
 FOR THE FIVE MONTH PERIOD ENDED NOVEMBER 30, 2015
 (In Thousands)**

	Current Month		FISCAL YEAR	
	<u>Actual</u>	<u>Projected</u>	<u>Actual</u>	<u>Projected</u>
Gross Revenues				
Instant games	6,648	7,917	40,690	39,583
On-line games	5,130	5,792	28,303	28,958
Racetrack video lottery	42,835	38,205	229,877	198,537
Limited video lottery	28,774	30,340	148,752	151,976
Racetrack table games	3,553	3,092	18,199	15,796
Historic resort	729	453	3,095	2,988
Total gross revenues	87,669	85,799	468,916	437,838
Net Revenues - Lottery Fund and Excess Lottery Fund				
Lottery Fund				
Instant games	928	1,035	5,658	5,177
On-line games	1,538	1,692	8,716	8,462
Racetrack Video Lottery	12,340	11,003	66,220	57,179
Total Lottery Fund net revenues	<u>14,806</u>	<u>13,730</u>	<u>80,594</u>	<u>70,818</u>
Excess Lottery Fund				
Racetrack Video Lottery	5,285	4,713	28,363	24,492
Limited Video Lottery	13,525	14,272	70,068	71,489
Limited Video Lottery Fees	10	-	1,137	0
Racetrack table games	1,743	1,517	8,929	7,750
Historic resort	328	183	1,276	1,253
Total Excess Lottery Fund Net Revenues	<u>20,891</u>	<u>20,685</u>	<u>109,773</u>	<u>104,984</u>
Total Net Revenues	<u>35,697</u>	<u>34,415</u>	<u>190,367</u>	<u>175,802</u>

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor



*Budget Division
Building 1, Room 314-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590*

304-347-4870

Memorandum

To: Honorable Chairmen and Members of the Joint Committee on
Government and Finance

From: William Spencer, C.P.A.
Director, Budget Division
Legislative Auditor's Office

Date: January 4, 2016

Re: Status of General Revenue Fund and State Road Fund as of
December 31, 2015 (FY 16)

We have reviewed the cash flow of the West Virginia general revenue fund as of December 31, 2015 which is the end of the sixth month of the fiscal year. The status of the fund collections for the month is as follows:

The net collections were 92% of the estimate for the fiscal year. Total collections were \$158 million below the estimate for the fiscal year.

Personal Income Tax collections were \$31.4 million below the estimate for the fiscal year.

Consumer sales and use tax collections were \$17.5 million below the estimate for the year.

Severance Tax was \$94.4 million below the estimate for the fiscal year.

Corporate Income and Business Franchise Tax collections were \$5.5 million below the estimate for the fiscal year.

State Road Fund

The state road fund collections were 106% of the estimate for the fiscal year. Total collections were \$20.4 million above the estimate for the fiscal year.

Rainy Day and Personal Income Tax Reserve

Revenue Shortfall Reserve Fund A (Rainy Day Fund) had a cash balance of \$421,737,312.25 as of December 31, 2015.

Balance July 1, 2015	480,055,439.54
Earnings	-58,318,127.29
Balance December 31, 2015	421,737,312.25

Revenue Shortfall Reserve Fund B (Tobacco Settlement Monies) had a cash balance of \$380,063,022.99 as of December 31, 2015.

Balance July 1, 2015	389,044,490.55
Earnings	-8,981,467.56
Balance December 31, 2015	380,063,022.99

The Personal Income Tax Reserve Fund had an \$8 million cash balance as of December 31, 2015.

Balance July 1, 2015	8,000,000.00
Revenues	0.00
Balance December 31, 2015	8,000,000.00

GENERAL REVENUE FUND FY 2014-2015

By Source and by Month

Monthly Revenue Estimates

as of December 31, 2015 OASIS

	MONTH ESTIMATES	NET MONTH COLLECTIONS	FINAL MONTHLY COLLECTIONS OVER ESTIMATES	YTD ESTIMATES	NET YTD COLLECTIONS	YEARLY COLLECTIONS OVER ESTIMATES
Personal Income Tax	152,760,000	143,451,797	-9,308,203	868,200,000	836,757,313	-31,442,687
Consumer Sales Tax & Use Tax	112,000,000	103,700,504	-8,299,496	617,600,000	600,067,341	-17,532,659
Severance Tax	49,900,000	34,262,163	-15,637,837	203,000,000	108,567,738	-94,432,262
Corp Income /Business Franchise	33,900,000	26,413,714	-7,486,286	88,900,000	83,415,406	-5,484,595
Insurance Tax	100,000	-77,288	-177,288	56,400,000	55,927,027	-472,973
Tobacco Products Tax	7,800,000	7,476,688	-323,312	52,100,000	51,952,442	-147,558
Business and Occupation	8,700,000	7,637,338	-1,062,662	52,700,000	54,329,944	1,629,944
Liquor Profit Transfers	800,000	812,500	12,500	6,390,000	6,951,067	561,067
Departmental Collections	1,023,000	1,043,280	20,280	6,230,000	6,540,542	310,542
Property Transfer Tax	970,000	784,697	-185,303	7,267,000	5,765,768	-1,501,232
Property Tax	143,000	155,249	12,249	4,037,000	4,238,495	201,495
Beer Tax and Licenses	521,000	513,297	-7,703	3,701,000	3,831,116	130,116
Miscellaneous Transfers	0	0	0	1,300,000	209,231	-1,090,769
Interest Income	1,250,000	-36,730	-1,286,730	7,500,000	-189,811	-7,689,811
Senior Tax Credit Reimbur Lot	0	0	0	1,075,000	317,804	-757,196
HB 102 - Lottery Transfers	4,893,000	4,957,283	64,283	24,573,000	26,438,070	1,865,070
Miscellaneous Receipts	3,910,000	4,040,104	130,104	11,262,000	9,042,857	-2,219,143
Business Fran Registration Fees	-39,000	-49,517	-10,517	301,000	308,664	7,664
Liquor License Renewal	0	0	0	71,000	70,724	-276
Special Revenue Transfer	0	0	0	0	0	0
Charter Tax	0	4,499	4,499	0	-7,341	-7,341
Video Lottery Transfers	0	59,454	59,454	0	107,593	107,593
July-Dec Retro Rev Adj	0	0	0	0	0	0
Cash Flow Transfer	0	0	0	0	60,000,000	60,000,000
SUBTOTALS	378,631,000	335,149,031	-43,481,969	2,012,607,000	1,914,641,990	-157,965,010
Less: Cash Flow Transfer		0			60,000,000	
TOTALS	378,631,000	335,149,031	-43,481,969	2,012,607,000	1,854,641,990	-157,965,010

Percent of Estimates

88.52%

92.15%

Collections past three days

52,803,717

STATE ROAD FUND FY 2014-2015
 By Source and by Month
 Monthly Revenue Estimates
 as of December 31, 2015 OASIS

	MONTH ESTIMATES	NET MONTH COLLECTIONS	FINAL MONTHLY COLLECTIONS OVER ESTIMATES	YTD ESTIMATES	NET YTD COLLECTIONS	YEARLY COLLECTIONS OVER ESTIMATES
Gasoline & Motor Carrier Rd Tax	33,300,000	45,129,044	11,829,044	219,800,000	215,244,198	-4,555,802
Privilege Tax	11,803,000	15,971,472	4,168,472	94,839,000	106,629,346	11,790,346
Licenses & Registration	6,056,000	5,717,003	-338,997	41,025,000	36,769,052	-4,255,948
Miscellaneous	0	852,874	852,874	0	17,229,805	17,229,805
Highway Litter Control	114,000	116,429	2,429	775,000	980,645	205,645
TOTALS	51,273,000	67,786,822	16,513,822	356,439,000	376,853,045	20,414,045

Percent of Estimates

132.21%

105.73%

Collections past three days

14,396,981

REVENUE SHORTFALL RESERVE FUND 7005, Part A as of November 30, 2015 : \$422,195,338.52

REVENUE SHORTFALL RESERVE FUND 7006, Part B as November 30, 2015: \$381,223,451.76

PERSONAL INCOME TAX REFUND RESERVE FUND as of November 30, 2015: \$8,000,000.00

Prepared by Legislative Auditor's Office, Budget Division

WEST VIRGINIA LEGISLATURE
Office of the Legislative Auditor



Budget Division
Building 1, Room 314-West Wing
1900 Kanawha Blvd. East
Charleston, WV 25305-0590
304-347-4870

To: Honorable Chairmen and Members of the Joint Committee on
Government and Finance

From: William Spencer, C.P.A.
Director Budget Division
Legislative Auditor's Office

Date: January 4, 2015

Re: West Virginia Unemployment Compensation Trust Fund

We have reviewed the November 30, 2015 monthly report of the Unemployment Compensation Trust Fund we received from WorkForce West Virginia.

As of November 30, 2015 of fiscal year 2015-2016, the trust fund cash flow was as follows:

Trust Fund Beginning Cash Balance 7-1-2015	\$ 115,210,747.46
Receipts July 1, 2015 thru November 30, 2015	\$ 84,647,024.64
Disbursements July 1, 2015 thru November 30, 2015	\$ 97,509,784.24
Balance November 30, 2015	\$ 102,347,987.86

ITEMS OF NOTE:

Regular benefits paid for July 2015 - November 2015 were \$ 20 million more than July 2014 - November 2014.

Federal emergency benefits totaled \$ -59 thousand for July 2015 - November 2015. For July 2014 - November 2014, federal emergency benefits totaled \$ -114 thousand.

Total disbursements were \$ 22 million more in July 2015 - November 2015 than the preceding July 2014 - November 2014.

Receipts as of November 2015 were \$ 2.2 million less than in July 2014 - November 2014. Overall ending trust fund balance was \$ 21 million lower on November 30, 2015 than on November 30, 2014.

Seasonally adjusted unemployment rates for November 2015 were 6.5 percent for West Virginia and 5.0 percent nationally.

Since November 2014, employment has decreased by 10,800. Employment gains included 2,700 in educational and health services, 200 in professional and business services, and 100 in other services. Employment declines included 4,600 in construction, 4,700 in mining and logging, 1,800 in leisure and hospitality, 1,600 in government, 400 in information, and 700 in financial activities. Employment in manufacturing and trade, transportation, and utilities was unchanged.

December 11, 2015

William Spencer
Budget Division
Office of the Legislative Auditor
Building 1, Room 332-West Wing
1900 Kanawha Boulevard East
Charleston, WV 25305-0590

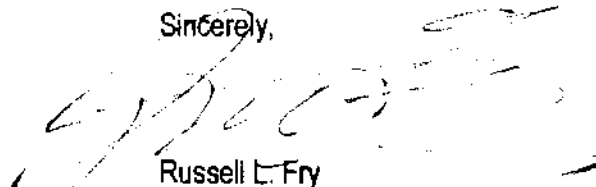
RE: Monthly Status Report

Dear Mr. Spencer:

Please find attached, the Monthly Status Report for the Joint Committee on Government and Finance, Unemployment Compensation Trust Fund for the month of November 2015.

If you have any questions or need any additional information, please feel free to contact Brock Jarrett at 304-558-2631 or Brock.A.Jarrett@wv.gov.

Sincerely,



Russell L. Fry
Acting Executive Director

RLF/gew

Enclosure

pc: Earl Ray Tomblin

**MONTHLY STATUS REPORT FOR THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE
FOR THREE MONTHS STARTING SEPTEMBER 2014 AND SEPTEMBER 2015**

	<u>SEPTEMBER 2014</u>	<u>OCTOBER 2014</u>	<u>NOVEMBER 2014</u>	<u>SEPTEMBER 2015</u>	<u>OCTOBER 2015</u>	<u>NOVEMBER 2015</u>	<u>THREE MONTH TOTAL VARIANCE *</u>
Balance Forward	<u>\$130,924,458.04</u>	<u>\$118,795,122.45</u>	<u>\$120,949,919.31</u>	<u>\$123,987,064.32</u>	<u>\$109,775,130.60</u>	<u>\$106,081,110.07</u>	<u>(\$30,826,194.81)</u>
Add Receipts:							
1. Bond Assessment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2. Regular Contributions:	\$1,454,591.75	\$15,170,501.44	\$16,985,990.55	\$926,984.59	\$12,383,226.70	\$17,812,262.08	(\$2,488,610.37)
3. Federal Emergency Benefits (EUC08)	\$2,212.97	\$4,840.99	\$66.99	\$98.00	\$608.99	\$340.99	(\$6,072.97)
4. Federal Share Extended Benefits (EB)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5. Temp Federal Additional Comp (FAC)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
6. UCFE (Federal Agencies)	\$90,218.01	\$94,742.63	\$96,967.45	\$95,065.07	\$88,448.27	\$120,889.64	\$22,474.89
7. Special Administrative Transfer	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
8. Reed Act Funds	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
9. UC Modernization Incentive	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
10. Treasury Interest Credits	\$721,166.06	\$0.00	\$0.00	\$668,402.36	\$0.00	\$0.00	(\$52,763.70)
11. UCX (Military Agencies)	\$182,814.99	\$182,136.05	\$175,171.26	\$136,795.00	\$140,206.99	\$148,840.00	(\$114,280.31)
12. WV Insurance Committee-Senate Bill 246	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
13. CMIA Receipts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Monthly Receipts	<u>\$2,451,003.78</u>	<u>\$15,452,221.11</u>	<u>\$17,258,196.25</u>	<u>\$1,827,345.02</u>	<u>\$12,612,490.95</u>	<u>\$18,082,332.71</u>	<u>(\$2,639,252.46)</u>
Less Disbursements:							
Debt Bond Repayment	(Retired)	(Retired)	(Retired)	(Retired)	(Retired)	(Retired)	(Retired)
Regular Benefits:	\$14,341,836.16	\$13,042,134.08	\$14,593,761.94	\$14,616,685.08	\$16,099,050.67	\$21,532,789.57	\$10,270,793.14
Federal Emergency Benefits (EUC08)	(\$19,830.54)	(\$14,979.38)	(\$28,552.78)	(\$11,558.63)	(\$14,011.78)	(\$11,426.02)	\$26,366.27
Federal Share Extended Benefits (EB)	(\$505.00)	(\$100.00)	(\$1,774.00)	(\$280.00)	(\$20.00)	(\$50.00)	\$2,029.00
Emergency Benefits (TEUC)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Temp Federal Additional Comp (FAC)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
UCFE (Federal Workers) Benefits	\$84,957.11	\$91,812.98	\$111,110.19	\$89,748.86	\$87,370.65	\$128,263.19	\$17,502.42
UCX (Military Workers) Benefits	\$173,881.64	\$178,556.57	\$196,635.74	\$134,683.43	\$134,121.94	\$165,878.18	(\$114,390.40)
Reed Act Funds	\$0.00	\$0.00	\$0.00	\$1,210,000.00	\$0.00	\$0.00	\$1,210,000.00
Special Administrative Transfer**	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Monthly Disbursements	<u>\$14,580,339.37</u>	<u>\$13,297,424.25</u>	<u>\$14,871,181.09</u>	<u>\$16,039,278.74</u>	<u>\$16,306,511.48</u>	<u>\$21,815,454.92</u>	<u>\$11,412,300.43</u>
Trust Fund Balance	<u>\$118,795,122.45</u>	<u>\$120,949,919.31</u>	<u>\$123,336,934.47</u>	<u>\$109,775,130.60</u>	<u>\$106,081,110.07</u>	<u>\$102,347,987.86</u>	<u>(\$44,877,747.70)</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.

UC TRUST FUND BALANCES & PROJECTIONS FOR 2016

January 4, 2016

Month	Receipts	Disbursements	Trust Fund Balance
2015			
Balance - 1/1/2015			\$ 106,142,501
January	\$ 8,714,176	\$ 21,349,596	\$ 93,507,081
February	\$ 16,594,587	\$ 22,289,775	\$ 87,811,893
March	\$ 1,767,322	\$ 24,343,821	\$ 65,235,394
April	\$ 30,340,648	\$ 19,700,305	\$ 75,875,737
May	\$ 76,657,428	\$ 18,928,027	\$ 133,605,138
June	\$ 2,163,949	\$ 20,558,340	\$ 115,210,747
July	\$ 24,038,360	\$ 21,712,433	\$ 117,536,674
August	\$ 27,554,977	\$ 21,104,587	\$ 123,987,064
September	\$ 1,595,387	\$ 15,807,320	\$ 109,775,131
October	\$ 12,383,227	\$ 16,077,248	\$ 106,081,110
November	\$ 17,812,262	\$ 21,545,384	\$ 102,347,988
December	\$ 1,346,804	\$ 20,910,560	\$ 82,784,232
Totals - 2015	\$ 220,969,127	\$ 244,327,396	\$ 82,784,232

2016			
January	\$ 8,714,176	\$ 21,349,596	\$ 70,148,812
February	\$ 17,042,641	\$ 21,703,554	\$ 65,487,899
March	\$ 1,944,054	\$ 22,130,968	\$ 45,300,985
April	\$ 34,133,229	\$ 17,511,601	\$ 61,922,613
May	\$ 83,955,215	\$ 17,281,289	\$ 128,596,539
June	\$ 2,360,652	\$ 18,845,830	\$ 112,111,361
July	\$ 28,545,553	\$ 18,284,040	\$ 122,372,874
August	\$ 31,371,341	\$ 18,538,269	\$ 135,205,946
September	\$ 1,648,513	\$ 15,296,744	\$ 121,557,715
October	\$ 11,754,159	\$ 16,938,988	\$ 116,372,886
November	\$ 16,907,399	\$ 22,700,217	\$ 110,580,068
December	\$ 1,280,541	\$ 21,991,636	\$ 89,868,973
Totals - 2016	\$ 239,657,473	\$ 232,572,732	\$ 89,868,973

The average projected unemployment rate for West Virginia for CY 2015 is 6.8%

The average projected unemployment rate for West Virginia for CY 2016 is 6.5%

PEIA
January Interim Talking Points

- **PEIA and RHBT financial results for October 2015 are available for your review.**
- **PEIA is currently behind plan \$1.8 million for FY 2016 due to lower than forecast investment income.**
- **And RHBT is currently behind plan \$20.9 million for FY 2016. This is also attributable to lower than forecast investment income.**



Financial Statements

October 2015

West Virginia Legislative Interims
January 2016

West Virginia Public Employees Insurance Agency
Statement of Changes in Plan Net Assets
For the Four Months Ending Saturday October 31, 2015
(Dollars in Thousands)
(Unaudited-For Internal Use Only)

(\$ 0 0 0 's)						
ACTUAL	BUDGET	PRIOR YR	BUDGET VARIANCE		PRIOR YR VARIANCE	
			\$	%	\$	%
			PREMIUM REVENUE			
\$154,783	\$156,246	\$156,246	(\$1,463)	(1%)	(\$1,463)	(1%)
39,239	39,709	39,709	(470)	(1%)	(470)	(1%)
36,356	36,337	37,337	19	0%	(981)	(3%)
700	741	706	(41)	(6%)	(6)	(1%)
(3,070)	3,075	(547)	(6,145)	(200%)	(2,523)	461%
445	829	833	(384)	(46%)	(388)	(47%)
1,541	1,550	1,550	(9)	(1%)	(9)	(1%)
229,994	238,487	235,834	(8,493)	(4%)	(5,840)	(2%)
			TOTAL REVENUE			
			OPERATING EXPENSES			
122,447	127,471	130,284	5,024	4%	7,837	6%
39,992	40,734	40,752	742	2%	760	2%
12,563	12,108	13,027	(455)	(4%)	464	4%
4,109	4,715	4,543	606	13%	434	10%
702	746	710	44	6%	8	1%
529	483	483	(46)	(10%)	(46)	(10%)
115	115	115	0	0%	0	0%
1,800	1,800	2,833	0	0%	1,033	36%
1,438	1,571	1,560	133	8%	122	8%
49,358	50,000	49,900	642	1%	542	1%
233,053	239,743	244,207	6,690	3%	11,154	5%
			TOTAL EXPENSES			
(3,059)	(1,256)	(8,373)	YTD SURPLUS (DEFICIT)		(1,803)	(144%)
					5,314	63%
129,978	129,978	181,388	Total Net Assets, Beginning of Period			
\$126,047	\$128,722	\$173,015			(51,410)	(28%)
			TOTAL NET ASSETS, END OF PERIOD		(\$46,968)	(27%)

West Virginia Retiree Health Benefit Trust Fund
STATEMENT OF CHANGES IN PLAN NET POSITION
For the Four Months Ending Saturday, October 31, 2015
(In Thousands)

ACTUAL	BUDGET	PRIOR YR		BUDGET VARIANCE		PRIOR YR VARIANCE	
				\$	%	\$	%
ADDITIONS							
Employer Premiums:							
\$1,063	\$1,073	\$1,080	Health premiums	(\$10)	(1%)	(\$17)	(2%)
41,116	41,700	41,553	Pay Go Premiums	(584)	(1%)	(438)	(1%)
46	0	41	Annual required contributions	46	0%	4	11%
42,224	42,773	42,674	Total Employer Premiums	(549)	(1%)	(450)	(1%)
Member Premiums:							
26,459	26,967	26,188	Health premiums	(508)	(2%)	272	1%
8,244	8,300	8,337	Pay Go Premiums	(56)	(1%)	(93)	(1%)
7,869	8,014	7,632	Life Insurance Premiums	(145)	(2%)	236	3%
42,572	43,281	42,156	Total Member Premiums	(709)	(2%)	415	1%
84,796	86,054	84,831	Total Premium Additions	(1,258)	(1%)	(35)	(0%)
Other Additions:							
400	239	267	Retiree Drug Subsidy	161	67%	133	50%
(9,027)	15,789	(2,282)	Investment Income	(24,817)	(157%)	(6,745)	296%
76,169	102,082	82,816	TOTAL ADDITIONS	(25,913)	(23%)	(1,480)	(2%)
DEDUCTIONS							
47,352	49,091	43,931	Payments to Managed Care Org.	1,739	4%	(3,421)	(8%)
7,761	7,500	7,143	Life Insurance Expense	(261)	(3%)	(618)	(9%)
23,597	23,237	23,193	Medical Claims Expense	(360)	(2%)	(404)	(2%)
9,266	13,047	10,273	Pharmacy Claims Expense	3,781	29%	1,007	10%
10	10	10	Comparative Effectiveness Research Fee	0	0%	0	0%
183	183	283	ACA Reinsurance Contribution	0	0%	100	35%
592	679	637	Administrative Service Fees (External)	87	13%	45	7%
886	915	911	Other Operating Expenses	29	3%	25	3%
48	0	0	Bad Debt Expense	(48)	0%	(48)	0%
89,697	94,662	86,382	TOTAL DEDUCTIONS	4,967	5%	(3,314)	(4%)
(13,528)	7,420	(3,566)	NET POSITION INCREASE (DECREASE)	(20,948)	(282%)	(9,962)	(279%)
Net Position Restricted for Post Employment Benefits							
704,592	704,592	691,558	Beginning of Period Total Net Position	0	0%	13,034	2%
\$691,064	\$712,012	\$687,992	End of Period Total Net Position	(\$20,948)	(3%)	\$3,072	0%

Accrual Basis / Unaudited / Internal Use Only
12/15/2015 8:37 AM

**West Virginia Board of Risk and Insurance Management
UNAUDITED BALANCE SHEET**



September 30

	2015	2014
	(in thousands)	
ASSETS		
Short Term Assets		
Cash and Equivalents	\$ 18,822	\$ 13,547
Advance Deposit with Carrier/Trustee	207,150	204,374
Receivables - Net	1,912	3,366
Prepaid Insurance	3,704	3,441
Total Short Term Assets	231,588	224,728
Long Term Assets		
Investments	127,977	139,393
Total Long Term Assets	127,977	139,393
TOTAL ASSETS	359,565	364,121
Deferred Outflows of Resources	127	-
LIABILITIES		
Short Term Liabilities		
Accounts payable	1,805	381
Claims Payable	276	789
OPEB Liability	407	388
Agents Commissions Payable	213	339
Unearned Revenue	7,649	7,518
Current Estimated Claim Reserve	47,890	53,448
Total Short Term Liabilities	58,239	62,863
Long Term Liabilities		
Compensated Absences	76	76
Net Pension Liability	253	-
Estimated Noncurrent Claim Reserve	115,051	100,597
Total Long Term Liabilities	115,380	100,673
TOTAL LIABILITIES	173,619	163,536
Deferred Inflows of Resources	270	-
Prior Year Net Assets	192,800	208,911
Current Year Earnings	(6,997)	(8,326)
TOTAL NET ASSETS	185,803	200,585
TOTAL LIABILITIES AND RETAINED EARNINGS	\$ 359,422	\$ 364,121

DRAFT - Unaudited - Management Purposes Only

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



	November 30	
	2015	2014
	(in thousands)	
Operating Revenues		
Premium Revenues	\$ 27,301	\$ 24,403
Less - Excess Insurance	(2,829)	(2,565)
Total Operating Revenues	24,472	21,838
Operating Expenses		
Claims Expense	22,409	26,229
Property & MS Claims Expense	2,468	1,017
Personal Services	708	560
General & Administrative Expense	928	755
Total Operating Expenses	26,513	28,561
Operating Income (Loss)	(2,041)	(6,723)
Nonoperating Revenues		
Investment Income	(1,176)	2,232
Total Nonoperating Revenues	(1,176)	2,232
Net Income (Loss)	\$ (3,217)	\$ (4,491)

DRAFT - Unaudited - Management Purposes Only

Department of Administration Real Estate Division Leasing Report
For the period of December 1 - 31, 2015

There were a total of 9 leasing changes for this period and they are as follows:

- 2 – New Contract of Lease
- 1 – Straight Renewal
- 4 – Renewal with Increase in Rent
- 1 – Renewal with Decrease in Square Feet
- 1 – Cancellation

Department of Administration Real Estate Division Leasing Report
For the period of December 1, 2015 through December 31, 2015

NEW CONTRACT OF LEASE

DIVISION OF FORESTRY

FOR-090 New Contract of Lease for 3 years consisting of tower/monitoring space at the monthly rate of \$218.50, annual cost \$2,622.00, Bald Hill near Summit Road, in the City of Romney, Hampshire County, West Virginia.

DIVISION OF MOTOR VEHICLES

DMV-058 New Contract of Lease for 5 years consisting of 4,000 square feet of office space at the annual per square foot rate of \$14.85, annual cost \$59,400.00, Marion Square Shopping Center, in the City of Fairmont, Marion County, West Virginia.

STRAIGHT RENEWAL

LOTTERY COMMISSION

LOT-006 Renewal for 1 year consisting of 190 square feet of office space at the current monthly rate of \$126.66, annual cost \$1,520.00 full service, on South Stone Street in the City of Wheeling, Ohio County, West Virginia.

RENEWAL WITH INCREASE IN RENT

NATIONAL COAL HERITAGE AREA AUTHORITY

CHH-003 Renewal for 3 years consisting of 450 square feet of storage space with an increase in the monthly rate from \$121.88 to \$127.05, annual cost \$1,525.00, 204 Bland Street, in the City of Bluefield, Mercer County, West Virginia.

BOARD OF FUNERAL EXAMINERS

EMB-001 Renewal for 3 years consisting of 1,555 square feet of storage space with an increase in the annual per square foot rate from \$11.71 to \$12.29, annual cost \$19,116.00, 179 Summers Street, in the City of Charleston, Kanawha County, West Virginia.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DEP-086 Renewal for 3 years consisting of 10,322 square feet of office space with an increase in the annual per square foot rate from \$6.35 to \$6.85, annual cost \$70,705.70, full service, 105 South Railroad Street, in the City of Philippi, Barbour County, West Virginia.

WEST VIRGINIA BOARD OF EXAMINERS FOR LICENSED PRACTICAL NURSES

PNB-002 Renewal for 5 years consisting of 2,025 square feet of office space with an increase in the annual per square foot rate from \$13.25 to \$13.58, annual cost \$27,499.50, full service, located at 101 Dee Drive in the City of Charleston, Kanawha County, West Virginia.

RENEWAL WITH DECREASE IN SQUARE FEET

DIVISION OF NATURAL RESOURCES

NAT-132 Renewal for 2 years with a decrease of square feet from 105 square feet to 60 square feet of storage space at the current monthly of \$101.00, annual cost \$1,212.00, electric, 200 Piedmont Road, in the City of Charleston, Kanawha County, West Virginia.

CANCELLATION

WEST VIRGINIA STATE POLICE

PSA-084 Lease cancellation consisting of tower/monitoring space, at the monthly rate of \$190.00 annual cost \$2,280.00, Bald Hill near Summit Road, in the City of Romney, Hampshire County, West Virginia.

Real Estate Division
 Monthly Summary of Lease Activity
 December 1 -31, 2015

# of Transactions	Agency	Lease #	County	Square Feet	Rental Rate	Annual Rent	Term in years	Total Aggregate
1	Division of Forestry	FOR-090	Hampshire	0	0.00	2,622	3	7,866
2	Division of Motor Vehicles	DMV-058	Marion	4,000	14.85	59,400	5	297,000
3	Lottery Commission	LOT-006	Ohio	190	0.00	1,520	1	1,520
4	National Coal Heritage Area Authority	CHH-003	Mercer	450	0.00	1,525	3	4,575
5	Board of Funeral Examiners	EMB-001	Kanawha	1,555	12.29	19,111	3	57,333
6	Department of Environmental Protection	DEP-086	Barbour	10,322	6.85	70,706	3	212,117
7	Board of Examiners for Licensed Practical Nurses	PNB-002	Kanawha	2,025	13.58	27,500	5	137,498
8	Division of Natural Resources	NAT-132	Kanawha	60	0.00	1,212	2	2,424

Total Rentable Square Feet 18,602 47.57
 Average Annual Rental Rate 11.89
 Total Annual Rent 183,595

CANCELLATIONS

# of Transactions	Agency	Lease #	County	Square Feet	Rental Rate	Annual Rent
1	West Virginia State Police	PSA-084	Hampshire	0	190.00	2,280

Total Rentable Square Feet 0
 Total Annual Rent 2,280

Joint Committee on Government and Finance

January 2016

Department of Health and Human Resources

**MEDICAID REPORT
November 2015 Data**

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
 BUREAU FOR MEDICAL SERVICES
 EXPENDITURES BY PROVIDER TYPE
 SFY2016

	MONTH OF NOVEMBER 2015					
	ACTUALS SFY2015	TOTAL SFY2016	ACTUALS Current Month Ended 11/30/15	ESTIMATE Current Month Ended 11/30/15	ACTUALS Year To-Date Thru 11/30/15	PROJECTED 12/1/15 Thru 6/30/16
EXPENDITURES:						
Inpatient Hospital - Reg. Payments	259,534,546	192,501,502	16,441,883	18,089,172	95,762,624	96,738,877
Inpatient Hospital - DSH	54,744,826	56,379,600	13,512,747	14,094,900	26,952,247	29,427,353
Inpatient Hospital - Supplemental Payments	84,334,445	94,593,746	17,316,047	15,716,095	43,536,282	51,057,464
Inpatient Hospital - GME Payments	6,212,903	6,325,883	2,006,966	1,581,471	3,588,442	2,737,441
Mental Health Facilities	92,645,721	107,767,853	4,719,131	7,235,735	31,844,391	75,923,462
Mental Health Facilities - DSH Adjustment Payments	18,878,790	18,886,800	4,721,761	4,721,700	9,443,522	9,443,278
Nursing Facility Services - Regular Payments ⁽²⁾	595,055,199	597,169,653	52,856,672	49,880,577	259,153,736	338,015,917
Nursing Facility Services - Supplemental Payments	-	-	-	-	-	-
Intermediate Care Facilities - Public Providers	-	-	-	-	-	-
Intermediate Care Facilities - Private Providers	66,746,902	70,498,800	5,743,185	5,874,900	29,499,880	40,998,920
Intermediate Care Facilities - Supplemental Payments	-	-	-	-	-	-
Physicians Services - Regular Payments	203,212,970	105,826,502	10,775,229	10,184,161	61,639,600	44,186,902
Physicians Services - Supplemental Payments	32,315,705	29,033,600	-	-	19,123,294	9,910,306
Physician and Surgical Services - Evaluation and Management	10,747,712	-	33,808	-	122,336	(122,336)
Physician and Surgical Services - Vaccine Codes	39,310	-	50	-	243	(243)
Outpatient Hospital Services - Regular Payments	183,696,235	108,150,368	8,467,243	10,356,697	58,692,745	49,457,623
Outpatient Hospital Services - Supplemental Payments	74,671,549	188,691,259	20,751,840	19,002,172	41,114,701	147,576,558
Prescribed Drugs	446,971,859	308,412,374	28,068,359	29,411,687	155,702,431	152,709,943
Drug Rebate Offset - National Agreement	(225,015,927)	(168,559,200)	(2,739,768)	(6,503,014)	(124,292,873)	(44,266,327)
Drug Rebate Offset - State Sidebar Agreement	(15,905,952)	(9,007,200)	(1,064,776)	(347,498)	(4,850,505)	(4,156,695)
Drug Rebate Offset - MCO National	(45,732,577)	(36,008,400)	(1,467,951)	(1,389,204)	(24,768,648)	(11,239,752)
Drug Rebate Offset - MCO State Sidebar Agreement	(4,151,916)	(3,098,400)	(1,552,142)	(119,536)	(3,009,830)	(88,570)
Dental Services	31,430,204	20,361,430	1,868,275	1,950,181	9,045,844	11,315,585
Other Practitioners Services - Regular Payments	20,379,468	12,984,934	1,063,146	1,259,918	5,909,894	7,075,040
Other Practitioners Services - Supplemental Payments	-	75,536	-	7,263	-	75,536
Clinic Services	7,081,157	5,832,562	249,126	496,328	2,142,059	3,690,503
Lab & Radiological Services	46,852,349	25,678,438	2,338,292	2,465,630	16,682,654	8,995,784
Home Health Services	55,466,443	48,869,575	3,625,727	4,729,941	20,668,243	28,201,332
Hysterectomies/Sterilizations	406,748	173,529	31,580	16,609	155,865	17,664
Pregnancy Terminations ⁽⁴⁾	375,310	246,000	43,859	23,510	68,926	177,074
EPSDT Services	1,226,053	836,130	172,472	79,959	752,387	83,743
Rural Health Clinic Services	17,179,959	10,556,545	641,404	991,694	4,850,825	5,705,720
Medicare Health Insurance Payments - Part A Premiums	16,692,882	16,664,400	1,504,786	1,388,700	7,524,415	9,139,985
Medicare Health Insurance Payments - Part B Premiums	90,742,492	99,588,000	7,375,479	8,299,000	37,039,951	62,548,049
120% - 134% Of Poverty	7,003,332	7,789,300	599,713	744,606	2,883,176	4,906,124
135% - 175% Of Poverty	-	-	-	-	-	-
Coinsurance And Deductibles	10,430,719	9,640,800	795,960	921,596	3,652,206	5,988,594

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
 BUREAU FOR MEDICAL SERVICES
 EXPENDITURES BY PROVIDER TYPE
 SFY2016

	MONTH OF NOVEMBER 2015					
	ACTUALS	TOTAL	ACTUALS	ESTIMATE	ACTUALS	PROJECTED
	SFY2015	SFY2016	Current Month Ended 11/30/15	Current Month Ended 11/30/15	Year To-Date Thru 11/30/15	12/1/15 Thru 6/30/16
Medicaid Health Insurance Payments: Managed Care Organizations (MCO)	604,638,556	1,191,411,185	104,016,769	97,606,479	410,261,357	781,149,828
Medicaid MCO - Evaluation and Management	10,183,868	-	160	-	1,700	(1,700)
Medicaid MCO - Vaccine Codes	517,315	-	8	-	86	(86)
Medicaid Health Insurance Payments: Prepaid Ambulatory Health Plan	-	-	-	-	-	-
Medicaid Health Insurance Payments: Prepaid Inpatient Health Plan	-	-	-	-	-	-
Medicaid Health Insurance Payments: Group Health Plan Payments	560,514	548,800	-	52,462	185,259	363,541
Medicaid Health Insurance Payments: Coinsurance	-	-	-	-	-	-
Medicaid Health Insurance Payments: Other	-	-	-	-	-	-
Home & Community-Based Services (MR/DD)	363,978,617	375,103,800	30,225,615	35,857,567	147,110,476	227,993,324
Home & Community-Based Services (Aged/Disabled)	102,849,082	117,097,831	8,942,309	11,276,138	43,378,847	73,718,983
Home & Community-Based Services (Traumatic Brain Injury)	876,006	2,253,300	115,678	216,663	557,996	1,695,304
Home & Community-Based Services (State Plan 1915(i) Only)	-	-	-	-	-	-
Home & Community-Based Services (State Plan 1915(j) Only)	-	-	-	-	-	-
Community Supported Living Services	-	-	-	-	-	-
Programs Of All-Inclusive Care Elderly	-	-	-	-	-	-
Personal Care Services - Regular Payments	75,577,907	73,617,354	6,514,941	7,037,657	31,992,935	41,624,419
Personal Care Services - SDS 1915(j)	-	-	-	-	-	-
Targeted Case Management Services - Com. Case Management	-	-	-	-	-	-
Targeted Case Management Services - State Wide	3,085,702	2,867,669	286,392	274,716	1,256,530	1,611,139
Primary Care Case Management Services	103,803	122,413	-	11,703	38,301	84,112
Hospice Benefits ⁽³⁾	26,445,147	26,313,918	1,940,611	2,515,550	10,965,471	15,348,447
Emergency Services Undocumented Aliens	72,090	139,700	345,566	13,356	412,838	(273,138)
Federally Qualified Health Center	61,804,749	43,953,670	1,991,593	4,200,426	13,668,885	30,284,785
Non-Emergency Medical Transportation	34,823,256	33,703,796	2,894,816	3,240,830	12,483,054	21,220,742
Physical Therapy	5,722,233	2,936,965	199,628	281,069	1,676,879	1,260,086
Occupational Therapy	624,577	574,815	41,417	54,953	252,822	321,993
Services for Speech, Hearing & Language	633,232	536,529	50,323	51,291	218,789	317,740
Prosthetic Devices, Dentures, Eyeglasses	2,305,840	1,886,791	185,053	180,524	945,144	941,647
Diagnostic Screening & Preventive Services	1,704,754	757,500	82,099	72,506	567,071	190,429
Nurse Mid-Wife	503,608	635,487	35,214	60,768	186,484	449,003
Emergency Hospital Services (448)	(448)	-	-	-	192	(192)
Critical Access Hospitals	71,608,002	47,924,409	3,497,430	4,513,186	24,743,003	23,181,406
Nurse Practitioner Services	5,052,021	3,702,293	322,711	354,336	1,920,513	1,781,780
School Based Services	36,294,586	56,575,009	1,034,199	5,416,808	6,974,219	49,600,790
Rehabilitative Services (Non-School Based)	94,547,692	84,537,087	6,522,227	6,895,936	33,483,537	51,053,550
Private Duty Nursing	7,642,494	7,570,500	777,903	723,692	3,213,303	4,357,197
Health Home for Enrollees w Chronic Conditions	238,519	600,000	23,634	57,692	178,156	421,844
Other Care Services	31,453,484	23,625,311	2,118,424	227,218	11,972,327	11,652,985
Less: Recoupments	-	-	(372,846)	-	(412,005)	412,005
NET EXPENDITURES:	3,688,116,621	4,025,858,052	370,691,977	382,358,476	1,548,865,235	2,476,992,818

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
 BUREAU FOR MEDICAL SERVICES
 EXPENDITURES BY PROVIDER TYPE
 SFY2016

MONTH OF NOVEMBER 2015

	ACTUALS	TOTAL	ACTUALS	ESTIMATE	ACTUALS	PROJECTED
	SFY2015	SFY2016	Current Month Ended 11/30/15	Current Month Ended 11/30/15	Year To-Date Thru 11/30/15	12/1/15 Thru 6/30/16
Collections: Third Party Liability (line 9A on CMS-64)	(9,862,202)	-	-	-	(3,535,776)	3,535,776
Collections: Probate (line 9B on CMS-64)	(919,956)	-	-	-	(59,410)	59,410
Collections: Identified through Fraud & Abuse Effort (line 9C on CMS-64)	-	-	-	-	(92,424)	92,424
Collections: Other (line 9D on CMS-64)	(13,822,233)	-	-	-	(7,064,304)	7,064,304
NET EXPENDITURES and CMS-64 ADJUSTMENTS:	3,663,512,229	4,025,858,052	370,691,977	382,358,476	1,538,113,321	2,487,744,732
Plus: Medicaid Part D Expenditures	36,926,444	39,285,595	3,128,843	3,273,800	15,504,951	23,780,644
Plus: State Only Medicaid Expenditures	606,484	1,017,615	69,234	97,848	299,226	718,389
Plus: Money Follow the Person Expenditures	1,298,632	5,140,141	92,741	494,244	529,011	4,611,130
TOTAL MEDICAID EXPENDITURES	\$ 3,702,343,790	\$ 4,071,301,403	\$ 373,982,795	\$ 386,224,368	\$ 1,554,446,509	\$ 2,516,854,895
Plus: Reimbursables ⁽¹⁾	5,039,370	5,615,668	330,354	539,968	1,534,870	4,080,798
Plus: NATCEP/PASARR/Eligibility Exams	267,913	332,214	13,282	31,944	128,855	203,359
Plus: HIT Incentive Payments	12,584,631	45,905,723	-	4,414,011	489,470	45,416,252
TOTAL EXPENDITURES	\$ 3,720,235,704	\$ 4,123,155,008	\$ 374,326,431	\$ 391,210,291	\$ 1,556,599,705	\$ 2,566,555,303

- (1) This amount will revert to State Only if not reimbursed.
- (2) Of the amount in the "Nursing Facility Services-Regular Payments" line, \$8,527,045 is the amount paid to State Facilities year to date.
- (3) Of the amount in the "Hospice Benefits" line, \$8,574,973 is the amount paid to Nursing Facilities for Hospice Benefits year to date.
- (4) Pregnancy Terminations are State Only expenditures and are not currently claimed.

WV DEPARTMENT OF HEALTH AND HUMAN RESOURCES
 BUREAU FOR MEDICAL SERVICES
 MEDICAID CASH REPORT
 SFY2016

5 Months Actuals 7 Months Remaining

MONTH OF NOVEMBER 2015	ACTUALS	ACTUALS	ACTUALS	PROJECTED	TOTAL
	SFY2015	Current Month Ended 11/30/15	Year-To-Date Thru 11/30/15	12/1/2015 Thru 6/30/16	SFY2016
REVENUE SOURCES					
Beg. Bal. (5084/1020 prior mth)	\$ 32,021,465	\$ 61,819,342	\$ 19,802,059	\$ (4,541)	\$ 19,797,518
MATCHING FUNDS					
General Revenue (0403/189)	304,124,566	36,217,691	165,665,448	300,484,883	466,150,331
MRDD Waiver (0403/466)	87,841,010	6,508,589	30,767,875	57,985,608	88,753,483
Rural Hospitals Under 150 Beds (0403/940)	2,596,000	216,333	1,081,666	1,514,334	2,596,000
Tertiary Funding (0403/547)	6,356,000	529,667	2,648,334	3,707,666	6,356,000
Traumatic Brain Injury (0403/835)	800,000	58,667	277,334	522,666	800,000
Title XIX Waiver for Seniors (0403-533)	13,593,620	996,865	4,712,455	8,881,165	13,593,620
Medical Services Surplus (0403/633)	41,238,413	-	-	-	-
Waiver for Senior Citizens Surplus (0403/526)	-	-	-	-	-
Lottery Waiver (Less 550,000) (5405/539)	17,008,768	4,378,666	8,359,271	11,543,755	19,903,026
Lottery Waiver (0420/539)	15,957,690	3,093,955	5,906,641	8,156,791	14,063,432
Lottery Transfer (5405/871)	40,025,462	1,907,400	3,641,400	5,028,600	8,670,000
Excess Lottery (5365/189)	35,901,082	-	-	14,422,140	14,422,140
Lottery Surplus (5405/68199)	-	-	10,000,000	-	10,000,000
Lottery Surplus (5365/68100)	-	-	20,000,000	-	20,000,000
Trust Fund Appropriation (5185/189)	112,246,112	-	-	59,223,557	59,223,557
Provider Tax (5090/189)	199,790,969	17,233,578	89,743,362	117,711,331	207,454,693
NSGO UPL (5084/6717)	861,352	-	664,605	576,798	1,241,403
Certified Match	19,862,122	1,019,912	5,598,113	19,665,562	25,263,674
Reimbursables - Amount Reimbursed	14,043,214	245,544	2,439,398	3,176,270	5,615,668
Other Revenue (MWIN, Escheated Warrants, etc.) 5084/4010 & 4015	888,274	49,092	245,807	654,193	900,000
CHIP State Share	14,794,668	793,120	3,567,160	(2,510,669)	1,056,491
CMS - 64 Adjustments	1,050,260	-	158,371	(158,371)	-
TOTAL MATCHING FUNDS	\$ 961,001,047	\$ 135,068,420	\$ 375,279,298	\$ 610,581,738	\$ 985,861,037
FEDERAL FUNDS	\$ 2,809,228,738	\$ 256,275,360	\$ 1,191,061,577	\$ 1,971,856,307	\$ 3,162,917,884
TOTAL REVENUE SOURCES	\$ 3,770,229,785	\$ 391,343,780	\$ 1,566,340,875	\$ 2,582,438,046	\$ 4,148,778,920
TOTAL EXPENDITURES:					
Provider Payments	\$ 3,720,235,704	\$ 374,326,431	\$ 1,556,599,705	\$ 2,566,555,303	\$ 4,123,155,008
TOTAL	\$ 49,994,081	\$ 17,017,349	\$ 9,741,170		\$ 25,623,912

Note: FMAP (71.35% applicable Jul. - Sep. 2015) (71.42% applicable Oct. 2015 - Jun. 2016)

Joint Committee on Government and Finance

January 2016

Department of Health and Human Resources

**MEDICAID WAIVER REPORT
November 2015 Data**

**WV Department of Health and Human Resources
Bureau for Medical Services AD Waiver Program Report**

Aged & Disabled Waiver Reported November 30, 2015		FY 2015 YTD	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	YTD 2016
Slots Approved By CMS (1)		6,464	6,385	6,385	6,385	6,385	6,385	6,385	6,385	6,385	6,385	6,385	6,385	6,385	6,385
Total number of members served YTD (unduplicated slots used) (2) YTD Column reflects most recent month's count		6,450	5,936	6,080	6,165	6,159	6,176								6,176
Applicants determined eligible this month and added to MEL (3)		2,596	217	171	102	140	175								805
Applicants determined ineligible		249	42	11	37	14	18								122
ACTIVE MEMBERS															
Active members at the end of the month (unduplicated slots active) YTD Column reflects most recent month's count		5,791	5,892	5,964	6,048	6,026	5,961								5,961
Active members enrolled during the calendar month		1,380	173	125	89	60	39								486
Members discharged during the calendar month		900	72	53	5	82	104								316
ADW Members whose case was closed by reason	Member is deceased	432	42	25	2	44	54								167
	Other (4)	468	30	28	3	38	50								149
MANAGED ENROLLMENT LIST (MEL)															
# Eligible applicants closed during the calendar month (removed from MEL)		4,435	92	278	199	135	176								880
ADW Applicants removed from the MEL	Applicant offered a slot	2,958	10	113	70	75	33								301
	Applicant became deceased	258	21	9	10	14	18								72
	Other (5)	1,217	61	156	119	46	125								507
Applicants on the MEL who are in a nursing facility YTD Column reflects average # members in setting		58	0	0	0	0	0								0
Applicants on the MEL receiving Personal Care YTD Column reflects average # members in setting		111	0	0	0	0	0								0
Applicants on the MEL at the end of the month		280	405	298	201	206	205								N/A
Days -Longest time spent on the MEL to date (6) YTD Column reflects average # of days		136	114	110	126	132	158								158

(1) Of the 6,385 slots approved by CMS, 90 are reserved for the Money Follows the Person and Rebalancing Demonstration Grant. This includes slots created by legislative appropriations but not yet submitted to CMS for approval due to the State-wide transition plan requirement.

(2) Unduplicated slots used refers to the total number of members who accessed services during the fiscal year.

(3) Monthly number added to MEL is being reported in the month an applicant is determined medically eligible; however, the individual's placement date on the managed enrollment list will be based on their initial application date.

(4) Other reason for closing a case may include, but is not limited to: No services for 180 days, unsafe environment, member non-compliance with program, member no longer desires services, member no longer a WV resident, member no longer medically or financially eligible.

(5) "Other" includes those who are no longer a WV resident, voluntarily decline the program, etc.

(6) Was previously reported in month/year. Now reported in actual days on the MEL

All data reported by Utilization Management Contractor is effective as of transpire date in web-based system. Data is point-in-time.

NOTE: Longest time spent on the MEL- If applicant became ineligible for waiver services (voluntarily declined services or no longer waiver eligible due to income/assets) but then regained eligibility, the number of days is counted beginning with newest instance of applicant-eligible status. This accounts for those who were not responsive to financial eligibility requirements, but then finally complied after the deadline and/or those who declined services and then shortly thereafter changed their mind. Previous months' data was revised to reflect this new methodology.

**WV Department of Health and Human Resources
Bureau for Medical Services I/DD Waiver Program Report**

Intellectual/Developmental Disabilities Waiver Reported November 30, 2015	FY 2015	July-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	YTD 2016
Slots approved by CMS	4,634	4,634	4,634	4,634	4,634	4,634								4,634
Total number of members served YTD (unduplicated slots used) (1)	4,634	4,634	4,634	4,634	4,634	4,634								4,634
Applicants determined eligible (2)	376	42	24	19	27	21								133
Applicants determined ineligible (3)	362	43	21	23	28	11								126
ACTIVE MEMBERS														
# of active members at the end of the month (unduplicated slots active) (1)	4,511	4,607	4,594	4,595	4,597	4,598								4,598
Discharged members at the end of the calendar month	126	2	13	10	7	0								32
Discharged members who were discharged by reason	Deceased	58	1	6	6	1	0							14
	Left program to enter a facility	16	1	2	2	0	0							5
	Other (6)	52	0	5	2	6	0							13
MANAGED ENROLLMENT LIST (MEL)														
Total number of applicants on the MEL at the end of the month	1,116	1,057	1,079	1,087	1,105	1,125								1,125
Number of applicants added to the MEL (4)	376	42	24	19	27	21								133
Applicants enrolled (moved from the MEL)	209	98	0	11	0	0								109
Applicants removed from the MEL due to Death (5)	10	1	0	0	0	0								1
Applicants on the MEL who are in a Nursing Facility	3	3	3	3	3	3								3
Applicants on the MEL who are in an ICF/IID Group Home	73	70	77	80	81	83								83
Applicants on the MEL receiving Personal Care Services each month	71	70	74	71	78	75								75
Longest on the MEL to date (7)	985 Days	1,016	1,047	1,077	1,108	1,138								1,138 Days

(1) Unduplicated slots used refers to the total number of members who accessed services during the fiscal year.

(2 and 3) Numbers determined medically eligible and ineligible reflect the activity for the month reported. Financial eligibility is not determined until after slot release.

(4) Monthly managed enrollment is being reported in the month an applicant is determined medically eligible; however, the individual's placement date on the managed enrollment list will be based on the date the Medical Eligibility Contract Agent (MECA) determines medical eligibility.

(5) Currently there is no way to track other reasons why someone may leave the MEL for reasons such as moved out of state, decided not to participate in program, etc.

(6) Other reason for program discharge may include, but is not limited to, member is no longer financial or medically eligible, moved out of state, no longer wants the service, etc.

(7) Longest number of days an applicant has been on the MEL.

**WV Department of Health and Human Resources
Bureau for Medical Services TBI Waiver Program Report**

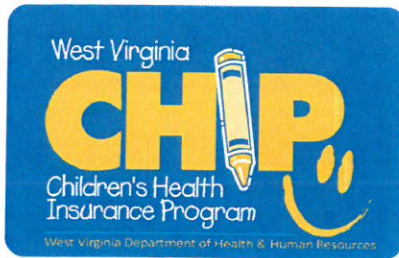
Traumatic Brain Injury Waiver Reported November 30, 2015		FY 2015	July-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	YTD 2016
Slots Approved By CMS		125	74	74	74	74	74	74	74	74	74	74	74	74	74
Total number of members served YTD (unduplicated slots used) (1)		68	57	57	57	59	61								61
Applicants determined eligible and became active this month (2)		31	2	0	1	2	2								7
Applicants determined ineligible (3)		5	4	0	0	1	0								5
ACTIVE MEMBERS															
Active members at the end of the month (unduplicated slots active)		56	57	54	51	56	58								58
Closed member at the end of the calendar month		11	1	3	3	1	0								8
TBI Members whose case was closed by reason	Deceased	2	0	1	1	1	0								3
	Left program to enter a faculty	0	0	0	1	0	0								1
	Other (4)	9	1	2	1	0	0								4
MANAGED ENROLLMENT LIST (MEL) *															
Total number of applicants on the MEL at the end of the month		N/A	NA	N/A	N/A	N/A	N/A								NA
Number of applicants added to the MEL		N/A	NA	N/A	N/A	N/A	N/A								NA
Applicants enrolled (moved from the MEL due to slot releases)		N/A	NA	N/A	N/A	N/A	N/A								NA
Applicants removed from the MEL due to death		N/A	NA	N/A	N/A	N/A	N/A								NA
New Applicants on the MEL who are in a nursing facility		N/A	NA	N/A	N/A	N/A	N/A								NA
New Applicants on the MEL receiving Personal Care each month		N/A	NA	N/A	N/A	N/A	N/A								NA
Longest on the MEL to date		N/A	NA	N/A	N/A	N/A	N/A								NA

(1) Unduplicated slots used refers to the total number of members who accessed services during the fiscal year.

(2 and 3) Numbers determined eligible and ineligible reflect the activity for the month reported. Eligibility refers to medical eligibility only. Financial eligibility is determined at a later date.

(4) Currently there is no way to track other reasons why someone may leave the MEL for reasons such as moved out of state, decided not to participate in program, etc.

* There is currently no Managed Enrollment List for the TBI Waiver Program.

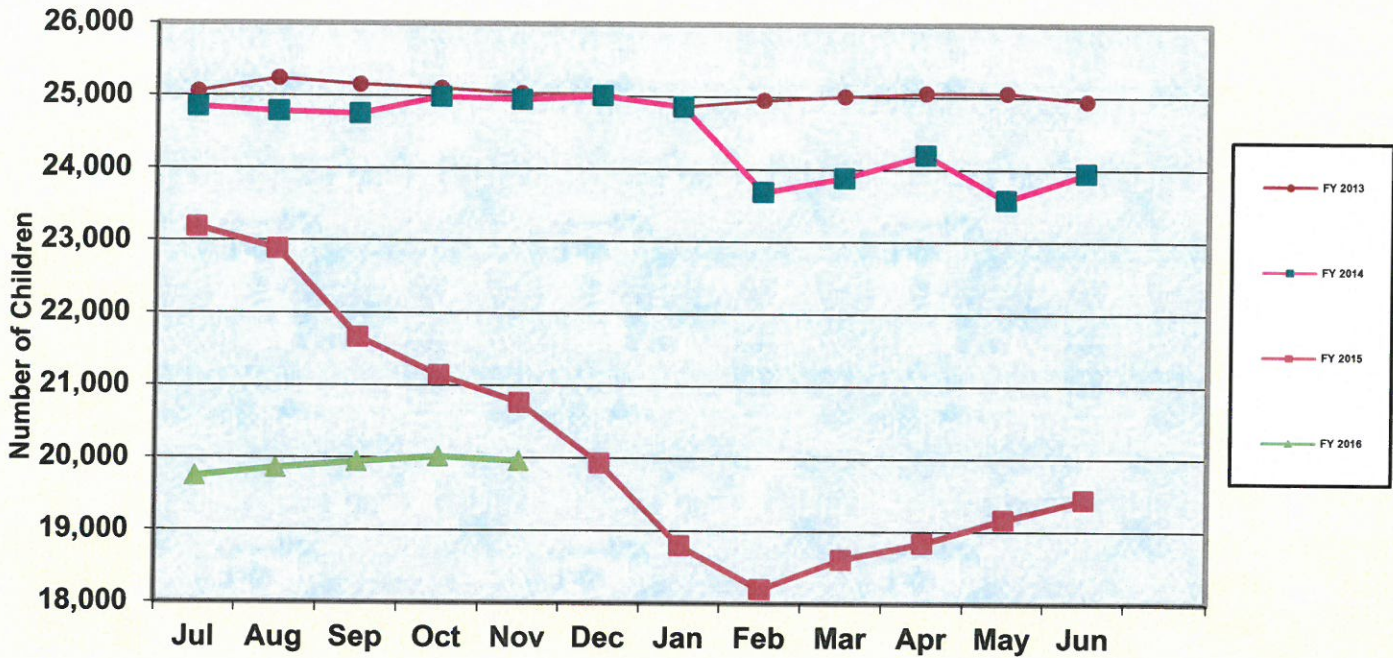


West Virginia Children's Health Insurance Program
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Joint Committee on Government and Finance Report

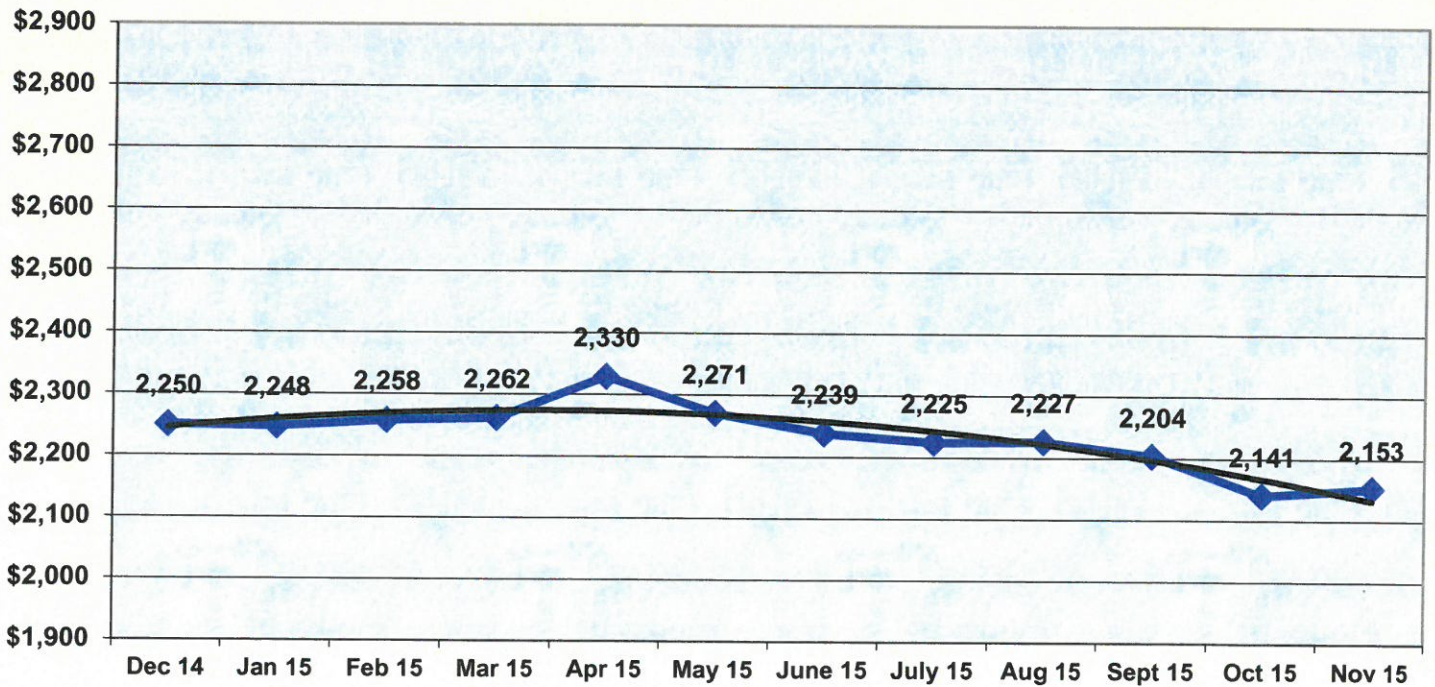
January 2016

WV CHIP Enrollment



November 30th Enrollment 19,961

Annualized Health Care Expenditures (Cost per Child)



**West Virginia Children's Health Insurance Program
Comparative Balance Sheet
November 2015 and 2014
(Accrual Basis)**

	November 30, 2015	November 30, 2014	Variance	
Assets:				
Cash & Cash Equivalents	\$7,465,614	\$13,451,714	(\$5,986,100)	-45%
Due From Federal Government	\$5,115,655	\$3,724,776	\$1,390,879	37%
Due From Other Funds	\$0	\$909,247	(\$909,247)	-100%
Accrued Interest Receivable	\$8,949	\$8,949	\$0	0%
Fixed Assets, at Historical Cost	<u>\$82,046</u>	<u>\$93,386</u>	<u>(\$11,340)</u>	<u>-12%</u>
Total Assets	<u>\$12,672,264</u>	<u>\$18,188,073</u>	<u>(\$5,515,808)</u>	<u>-30%</u>
Liabilities:				
Accounts Payable	\$589,499	\$534,899	\$54,600	10%
Deferred Revenue	-\$1,472,104	\$663,263	(\$2,135,366)	-322%
Unpaid Insurance Claims Liability	<u>\$3,780,000</u>	<u>\$4,000,000</u>	<u>(\$220,000)</u>	<u>-6%</u>
Total Liabilities	<u>\$2,897,395</u>	<u>\$5,198,162</u>	<u>(\$2,300,766)</u>	<u>-44%</u>
Fund Equity	<u>\$9,774,869</u>	<u>\$12,989,911</u>	<u>(\$3,215,042)</u>	<u>-25%</u>
Total Liabilities and Fund Equity	<u>\$12,672,264</u>	<u>\$18,188,073</u>	<u>(\$5,515,808)</u>	<u>-30%</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, 2015 and November 30, 2014
(Modified Accrual Basis)

	November 30, 2015	November 30, 2014	Variance	
Revenues				
Federal Grants	17,574,810	18,192,858	(618,048)	-3%
State Appropriations	0	4,195,490	(4,195,490)	-100%
Premium Revenues	556,180	419,610	136,570	33%
Investment Income:				
Investment Earnings	<u>25,708</u>	<u>39,035</u>	<u>(13,327)</u>	<u>-34%</u>
Total Revenues	<u>18,156,698</u>	<u>22,846,993</u>	<u>(4,690,295)</u>	<u>-21%</u>
Expenditures:				
Claims:				
Outpatient Services	4,431,836	5,987,518	(1,555,682)	-26%
Physicians & Surgical	3,726,203	4,488,569	(762,366)	-17%
Prescribed Drugs	3,567,498	3,290,494	277,004	8%
Dental	2,394,610	3,090,369	(695,759)	-23%
Inpatient Hospital Services	1,619,008	1,426,620	192,388	13%
Outpatient Mental Health	414,284	627,914	(213,630)	-34%
Durable & Disposable Med. Equip.	365,407	529,393	(163,986)	-31%
Therapy	325,880	275,527	50,353	18%
Inpatient Mental Health	305,189	464,648	(159,459)	-34%
Vision	282,001	384,657	(102,656)	-27%
Medical Transportation	151,891	210,442	(58,551)	-28%
Other Services	24,540	41,074	(16,534)	-40%
Less: Collections**	<u>(192,972)</u>	<u>(230,294)</u>	<u>37,322</u>	<u>-16%</u>
Total Claims	<u>17,415,375</u>	<u>20,586,931</u>	<u>(3,171,556)</u>	<u>-15%</u>
General and Admin Expenses:				
Salaries and Benefits	256,640	268,944	(12,304)	-5%
Program Administration	1,254,713	1,368,525	(113,812)	-8%
Eligibility	25,685	36,000	(10,315)	-29%
Outreach & Health Promotion	9,735	361,977	(352,242)	-97%
Current	<u>79,397</u>	<u>100,764</u>	<u>(21,367)</u>	<u>-21%</u>
Total Administrative	<u>1,626,170</u>	<u>2,136,210</u>	<u>(510,040)</u>	<u>-24%</u>
Total Expenditures	<u>19,041,545</u>	<u>22,723,141</u>	<u>(3,681,596)</u>	<u>-16%</u>
Excess of Revenues				
Over (Under) Expenditures	(884,847)	123,852	(1,008,699)	-814%
Unrealized Gain(loss) On Investments*	(14,965)	(52)	(14,913)	28558%
Fund Equity, Beginning	<u>10,674,681</u>	<u>12,866,112</u>	<u>(2,191,431)</u>	<u>-17%</u>
Fund Equity, Ending	<u>9,774,869</u>	<u>12,989,911</u>	<u>(3,215,043)</u>	<u>-25%</u>

* Short Term Bond Fund Investment began in November 2009

** Collections are primarily drug rebates and subrogation

PRELIMINARY FINANCIAL STATEMENTS

Unaudited - For Management Purposes Only - Unaudited

West Virginia Children's Health Insurance Program
 Budget to Actual Statement
 State Fiscal Year 2016
 For the Five Months Ended November 30, 2015

	Budgeted for Year	Year to Date		Year to Date Variance*	Monthly Budgeted Amt	Actual Amt		
		Budgeted Amt	Actual Amt			Nov-15	Oct-15	Sep-15
Projected Cost	\$46,514,413	\$19,381,005	\$17,771,364	\$1,609,642	\$3,876,201	\$3,824,311	\$3,702,313	3,067,167
Premiums	1,854,664	772,777	\$556,038	(\$216,739)	154,555	105,671	109,124	112,258
Subrogation & Rebates	1,015,410	423,088	\$192,972	(230,116)	84,618	0	0	176,107
Net Benefit Cost	\$43,644,339	18,572,971	\$17,022,354	\$1,550,618	3,714,594	3,718,640	3,593,189	\$2,778,802
Salaries & Benefits	\$646,556	\$269,398.33	\$256,640	\$12,758	\$53,880	\$48,977	\$48,184	\$49,972
Program Administration	3,500,000	1,458,333	\$903,539	554,794	291,667	220,933	186,820	234,636
Eligibility	250,000	104,167	\$13,485	90,682	20,833	585	12,000	0
Outreach & Health Prom.	300,000	125,000	\$18,061	106,939	25,000	3,648	0	5,751
Current Expense	250,000	104,167	\$72,548	31,619	20,833	26,057	15,388	17,285
Total Admin Cost	\$4,946,556	\$2,061,065	\$1,264,273	\$796,792	\$412,213	\$300,200	\$262,392	\$307,644
Total Program Cost	\$48,590,895	\$20,634,036	\$18,286,627	\$2,347,410	\$4,126,807	\$4,018,840	\$3,855,581	\$3,086,446
Federal Share 100.00%	38,848,421	16,186,842	\$16,198,980	(12,138)	3,291,541	4,018,840	3,855,581	2,467,613
State Share 0.00%	9,742,474	4,447,195	\$2,087,647	2,359,547	835,266	0	0	618,832
Total Program Cost **	\$48,590,895	\$20,634,036	\$18,286,627	\$2,347,410	\$4,126,807	\$4,018,840	\$3,855,581	\$3,086,446

* Positive percentages indicate favorable variances

** Budgeted Year Based on CCRC Actuary 6/30/2015 Report.

Unaudited - Cash Basis For Management Purposes Only - Unaudited

Memo for Calculations Above:

Notes:

1/. Total budgeted for Year Program costs are CCRC Actuary's Base Line Scenerio dated 6/30/15 Final worksheet
 Net Paid Program Costs.

2/. Federal Share for FFY 2016 is 100.00%. Federal Share for FFY 2015 (10/1/14 - 9/30/15) is set at 79.95%.

WVCHIP Enrollment Report

ATTACHMENT 1

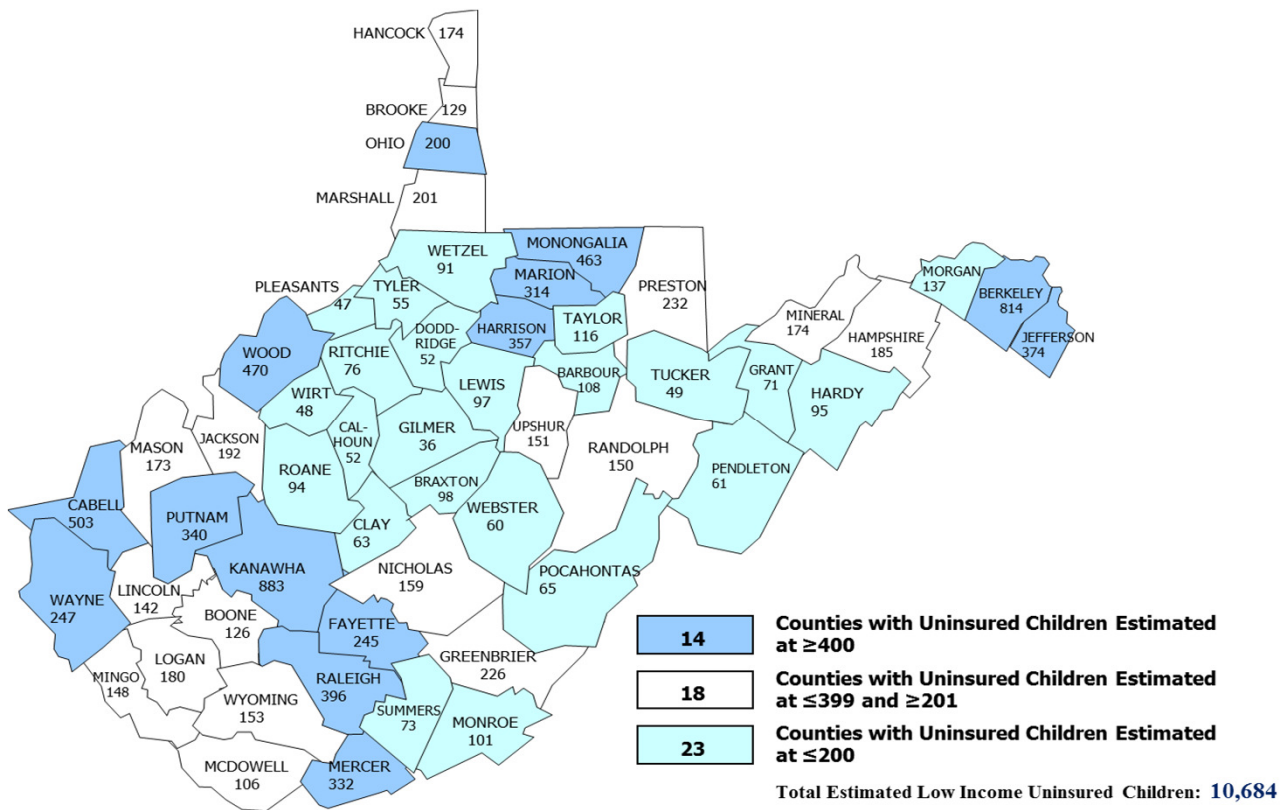
December 2015

County	County Pop. 2010 Est. (0-18 Yrs)	Total CHIP Enrollment Dec-15	Total Medicaid Enrollment Dec-15	Total CHIP/Medicaid Enrollment	CHIP/Medicaid Enrollment % of Population	2010 Est. Uninsured 3%	2010 # Children Uninsured Ranking*
Barbour	3,600	222	1,777	1,999	55.5%	108	33
Berkeley	26,251	1,377	11,384	12,761	48.6%	788	2
Boone	5,615	235	3,276	3,511	62.5%	168	25
Braxton	3,006	173	1,673	1,846	61.4%	90	40
Brooke	4,573	192	1,690	1,882	41.2%	137	31
Cabell	18,879	891	9,472	10,363	54.9%	566	4
Calhoun	1,518	95	840	935	61.6%	46	51
Clay	2,215	141	1,431	1,572	71.0%	66	44
Doddridge	1,673	84	756	840	50.2%	50	48
Fayette	9,438	690	5,458	6,148	65.1%	283	13
Gilmer	1,260	58	598	656	52.0%	38	54
Grant	2,555	116	1,084	1,200	47.0%	77	42
Greenbrier	7,131	528	3,635	4,163	58.4%	214	16
Hampshire	5,392	213	2,466	2,679	49.7%	162	27
Hancock	6,166	329	2,718	3,047	49.4%	185	20
Hardy	3,015	165	1,661	1,826	60.6%	90	39
Harrison	15,202	809	6,484	7,293	48.0%	456	7
Jackson	6,602	359	3,099	3,458	52.4%	198	18
Jefferson	12,679	524	3,916	4,440	35.0%	380	10
Kanawha	39,771	1,849	19,790	21,639	54.4%	1,193	1
Lewis	3,389	191	1,899	2,090	61.7%	102	37
Lincoln	4,930	295	3,175	3,470	70.4%	148	30
Logan	7,496	401	4,652	5,053	67.4%	225	15
Marion	11,227	498	5,232	5,730	51.0%	337	11
Marshall	6,886	257	2,971	3,228	46.9%	207	17
Mason	5,929	224	2,906	3,130	52.8%	178	21
McDowell	4,423	192	3,356	3,548	80.2%	133	32
Mercer	12,764	784	8,022	8,806	69.0%	383	9
Mineral	5,868	217	2,357	2,574	43.9%	176	23
Mingo	5,905	217	4,021	4,238	71.8%	177	22
Monongalia	15,294	727	5,289	6,016	39.3%	459	6
Monroe	2,835	219	1,240	1,459	51.5%	85	41
Morgan	3,596	212	1,586	1,798	50.0%	108	34
Nicholas	5,561	339	2,930	3,269	58.8%	167	26
Ohio	8,444	405	3,462	3,867	45.8%	253	14
Pendleton	1,462	85	609	694	47.5%	44	52
Pleasants	1,551	92	655	747	48.1%	47	50
Pocahontas	1,561	139	825	964	61.8%	47	49
Preston	6,536	398	3,102	3,500	53.5%	196	19
Putnam	13,150	557	4,370	4,927	37.5%	395	8
Raleigh	16,403	1,028	9,223	10,251	62.5%	492	5
Randolph	5,705	422	2,903	3,325	58.3%	171	24
Ritchie	2,205	113	1,025	1,138	51.6%	66	45
Roane	3,239	261	1,842	2,103	64.9%	97	38
Summers	2,521	149	1,357	1,506	59.7%	76	43
Taylor	3,514	205	1,530	1,735	49.4%	105	35
Tucker	1,371	95	549	644	47.0%	41	53
Tyler	1,924	95	794	889	46.2%	58	47

WVCHIP Enrollment Report

December 2015

County	County Pop. 2010 Est. (0-18 Yrs)	Total CHIP Enrollment Dec-15	Total Medicaid Enrollment Dec-15	Total CHIP/Medicaid Enrollment	CHIP/Medicaid % of Population	2010 Est. Uninsured 3%	2010 # Children Uninsured Ranking*
Upshur	4,996	284	2,805	3,089	61.8%	150	29
Wayne	9,516	384	4,813	5,197	54.6%	285	12
Webster	1,977	129	1,320	1,449	73.3%	59	46
Wetzel	3,466	168	1,739	1,907	55.0%	104	36
Wirt	1,201	69	748	817	68.1%	36	55
Wood	18,956	876	9,344	10,220	53.9%	569	3
Wyoming	5,116	336	2,932	3,268	63.9%	153	28
Totals	387,459	20,113	188,791	208,904	53.9%	11,624	

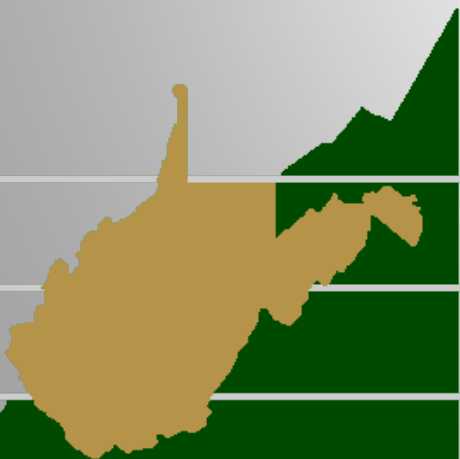


The above map shows the most recent 2013 county level data provided by the U.S. Census Bureau Small Area Health Insurance Estimates (SAHIE) for children under 19 years. While the statewide average for children under 19 is now about 3%, the SAHIE data reflects more accurately the variation from county to county depending on the availability of employer sponsored insurance and should be a more accurate way to target outreach than in previous years.

WEST VIRGINIA INVESTMENT MANAGEMENT BOARD

Participant Plan Performance Report

November 30, 2015



West Virginia Investment Management Board

Participant Plans Allocation & Performance Net of Fees

As of November 30, 2015

	6/30/2015		11/30/2015		Performance %						
	Asset (\$000)	%	Asset (\$000)	%	1 Month	3 Month	FYTD	1 Year	3 Year	5 Year	10 Year
WVIMB Fund Assets	17,180,853	100.0	16,711,864	100.0							
Pension Assets	13,635,608	79.4	13,160,017	78.8							
Public Employees' Retirement System	5,742,388	33.5	5,573,497	33.4	(0.3)	1.8	(1.9)	1.4	8.7	8.6	6.5
Teachers' Retirement System	6,753,118	39.3	6,481,657	38.8	(0.3)	1.8	(1.9)	1.4	8.7	8.5	6.2
EMS Retirement System	56,547	0.3	56,176	0.3	(0.3)	1.8	(1.9)	1.4	8.7	8.5	
Public Safety Retirement System	607,339	3.5	579,294	3.5	(0.3)	1.9	(1.8)	1.5	8.7	8.6	6.5
Judges' Retirement System	170,727	1.0	166,076	1.0	(0.3)	1.8	(1.8)	1.5	8.7	8.5	6.4
State Police Retirement System	131,954	0.8	131,841	0.8	(0.3)	1.8	(1.8)	1.4	8.7	8.5	6.4
Deputy Sheriffs' Retirement System	170,181	1.0	167,776	1.0	(0.3)	1.8	(1.8)	1.4	8.7	8.5	6.5
Municipal Police & Firefighter Retirement System	1,944	0.0	2,336	0.0	(0.3)	1.8	(1.8)	1.4	8.2	6.7	
Municipal Model A	1,410	0.0	1,364	0.0	(0.3)	1.8	(1.9)	1.4			
Insurance Assets	2,550,823	14.8	2,563,122	15.3							
Workers' Compensation Old Fund	1,290,486	7.5	1,298,776	7.8	(0.3)	1.0	(1.0)	(0.4)	3.2	4.4	
Workers' Comp. Self-Insured Guaranty Risk Pool	15,756	0.1	33,413	0.2	(0.1)	0.9	(1.4)	0.0	4.2	5.0	
Workers' Comp. Self-Insured Security Risk Pool	9,046	0.0	56,274	0.3	0.0	0.9	(1.3)	(0.1)			
Workers' Comp. Uninsured Employers' Fund	10,889	0.1	10,728	0.1	(0.2)	0.7	(1.5)	(0.1)	4.1	4.9	
Pneumoconiosis	261,369	1.5	252,349	1.5	(0.2)	0.8	(1.5)	(0.2)	4.1	4.9	4.8
Board of Risk & Insurance Management	137,824	0.8	130,692	0.8	(0.2)	0.7	(1.6)	(0.3)	4.1	5.0	5.3
Public Employees' Insurance Agency	218,202	1.3	184,729	1.1	(0.2)	0.8	(1.5)	(0.1)	4.2	5.0	5.0
WV Retiree Health Benefit Trust Fund	607,251	3.5	596,161	3.5	(0.3)	1.9	(1.8)	1.4	8.6	7.9	
Endowment Assets	994,422	5.8	988,725	5.9							
Berkeley County Development Authority	-	0.0	5,980	0.0	(0.3)						
Wildlife Fund	54,655	0.3	53,851	0.3	(0.3)	1.9	(1.8)	1.4	8.6	8.5	6.4
Prepaid Tuition Trust	66,440	0.4	55,925	0.3	(0.4)	2.4	0.1	1.5	6.9	7.3	6.3
Revenue Shortfall Reserve Fund	376,714	2.2	375,199	2.2	(0.1)	0.0	(0.4)	(0.6)	(0.1)	3.0	
Revenue Shortfall Reserve Fund - Part B	384,146	2.2	380,063	2.3	(0.3)	1.1	(1.1)	(0.4)	3.1	4.7	
WV DEP Trust	8,254	0.1	8,039	0.1	(0.4)	1.7	(2.6)	(0.4)	7.9		
WV DEP Agency	104,213	0.6	109,668	0.7	(0.3)	1.2	(1.7)	(0.3)			

West Virginia Investment Management Board

Composite Asset Allocation & Performance Net of Fees

As of November 30, 2015

	Asset (\$000)	%	Performance %							
			1 Month	3 Month	FYTD	1 Year	3 Year	5 Year	10 Year	
Investment Pools Composite	16,718,024	100.00								
Total Equity Composite	8,454,047	50.57	(0.73)	2.83	(3.45)	(1.38)	10.91	9.84	6.51	
+/- Total Equity Policy Index (b)			(0.07)	(0.15)	(0.11)	0.26	0.97	1.01	1.16	
US Equity Composite	4,303,800	25.74	0.52	5.03	0.88	2.99	16.26	14.64	7.78	
+/- Russell 3000 Index			(0.03)	(0.31)	0.25	0.41	0.26	0.51	0.19	
Large Cap Composite	3,506,292	20.97	0.25	5.62	1.97	3.34	16.46	14.79	7.58	
+/- S&P 500 Index			(0.05)	(0.45)	0.21	0.59	0.37	0.39	0.10	
Non-Large Cap Composite	797,508	4.77	1.73	2.50	(3.73)	1.42	15.01	13.80	8.45	
+/- Russell 2500 Index			(0.23)	(0.35)	(0.31)	(1.18)	0.00	0.92	0.42	
International Equity Composite	4,150,247	24.83	(1.99)	0.61	(7.70)	(5.81)	5.60	4.98	5.74	
+/- MSCI AC World ex US IMI Index (c)			(0.12)	(0.04)	(0.51)	0.03	1.57	1.37	1.59	
Fixed Income Composite	3,328,158	19.91	(0.19)	0.40	0.16	0.64	2.12	3.68	4.72	
+/- Barclays Capital Universal (d)			0.17	0.06	(0.47)	(0.11)	0.44	0.30	(0.14)	
Core Fixed Income	996,168	5.96	(0.21)	0.52	1.02	1.88	2.07	3.74		
+/- Barclays Capital Aggregate			0.05	0.09	0.04	0.91	0.57	0.65		
Total Return Fixed Income	2,331,990	13.95	(0.18)	0.33	(0.23)	0.07	2.19	3.67	5.04	
+/- Barclays Capital Universal			0.18	(0.01)	(0.86)	(0.68)	0.51	0.29	0.21	
TIPS Composite	429,241	2.57	(0.10)	(0.44)	(0.99)	(1.77)	(2.24)	2.37		
+/- Barclays Capital U.S. TIPS			0.00	(0.01)	0.00	0.01	(0.02)	(0.02)		
Cash Composite	186,590	1.12	0.01	0.04	0.05	0.12	0.13	0.12	1.41	
+/- Citigroup 90 Day T-Bill (e)			0.00	0.03	0.03	0.09	0.04	(0.03)	0.02	
Private Equity Composite	1,342,018	8.02	(0.06)	0.37	(0.90)	9.61	11.87	13.08		
+/- Russell 3000 + 3% (f, g)								(5.22)		
Real Estate Composite	1,398,283	8.36	0.40	2.81	2.65	10.24	10.65	10.35		
+/- NCREIF + 1% (f)								(3.25)		
Hedge Fund Composite	1,579,687	9.45	0.29	(0.86)	(2.13)	1.45	6.37	5.22		
+/- HFRI FOF + 1% (h)			(0.21)	(0.55)	(0.19)	(0.20)	2.99	1.44		

West Virginia Investment Management Board

Participant Plans Allocation vs. Strategy

As of November 30, 2015

	Domestic Equity		Int'l Equity		Fixed Income		Private Equity		Real Estate		Hedge Funds		Cash	
	Actual %	Strategy %	Actual %	Strategy %	Actual %	Strategy %	Actual %	Strategy %	Actual %	Strategy %	Actual %	Strategy %	Actual %	Strategy %

Pension Assets

Public Employees' Retirement System	28.3	27.5	27.2	27.5	14.1	15.0	9.7	10.0	10.1	10.0	10.4	10.0	0.2	0.0
Teachers' Retirement System	28.2	27.5	27.3	27.5	13.9	15.0	9.7	10.0	10.1	10.0	10.5	10.0	0.3	0.0
EMS Retirement System	28.2	27.5	27.5	27.5	14.5	15.0	9.7	10.0	10.0	10.0	9.8	10.0	0.3	0.0
Public Safety Retirement System	28.4	27.5	27.4	27.5	14.0	15.0	9.8	10.0	10.2	10.0	10.2	10.0	0.0	0.0
Judges' Retirement System	28.3	27.5	27.3	27.5	14.1	15.0	9.6	10.0	10.4	10.0	10.2	10.0	0.1	0.0
State Police Retirement System	28.0	27.5	27.4	27.5	14.6	15.0	9.7	10.0	10.0	10.0	9.8	10.0	0.5	0.0
Deputy Sheriffs' Retirement System	28.2	27.5	27.2	27.5	14.5	15.0	9.7	10.0	10.0	10.0	10.1	10.0	0.3	0.0
Municipal Police & Firefighter Retirement System	27.5	27.5	26.8	27.5	14.2	15.0	9.6	10.0	9.4	10.0	9.5	10.0	3.0	0.0
Municipal Model A	28.4	27.5	27.6	27.5	13.1	15.0	9.7	10.0	10.0	10.0	9.6	10.0	1.6	0.0

Insurance Assets

Workers' Compensation Old Fund	15.5	15.0	14.8	15.0	64.0	70.0	0.0	0.0	0.0	0.0	0.0	0.0	5.7	0.0
Workers' Comp. Self-Insured Guaranty Risk Pool	7.2	15.0	6.9	15.0	20.6	45.0	0.0	0.0	0.0	0.0	9.3	20.0	56.0	5.0
Workers' Comp. Self-Insured Security Risk Pool	2.4	15.0	2.3	15.0	6.9	45.0	0.0	0.0	0.0	0.0	3.1	20.0	85.3	5.0
Workers' Comp. Uninsured Employers Fund	15.7	15.0	15.1	15.0	39.5	40.0	0.0	0.0	0.0	0.0	19.9	20.0	9.8	10.0
Pneumoconiosis	15.6	15.0	14.9	15.0	44.6	45.0	0.0	0.0	0.0	0.0	20.4	20.0	4.5	5.0
Board of Risk & Insurance Mgmt.	15.5	15.0	14.9	15.0	44.4	45.0	0.0	0.0	0.0	0.0	20.3	20.0	4.9	5.0
Public Employees' Insurance Agency	15.4	15.0	15.0	15.0	49.3	50.0	0.0	0.0	0.0	0.0	20.3	20.0	0.0	0.0
WV Retiree Health Benefit Trust Fund	28.4	27.5	27.3	27.5	14.5	15.0	9.7	10.0	10.1	10.0	9.9	10.0	0.1	0.0

Endowment Assets

Berkeley County Development Authority	27.7	27.5	27.0	27.5	15.0	15.0	10.0	10.0	10.1	10.0	10.1	10.0	0.1	0.0
Wildlife Fund	28.2	27.5	27.3	27.5	14.7	15.0	9.7	10.0	10.0	10.0	9.9	10.0	0.2	0.0
Prepaid Tuition Trust	28.7	27.5	22.8	22.5	46.4	50.0	0.0	0.0	0.0	0.0	0.0	0.0	2.1	0.0
Revenue Shortfall Reserve Fund	0.0	0.0	0.0	0.0	100.0	100.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Revenue Shortfall Reserve Fund - Part B	15.8	15.0	15.2	15.0	69.0	70.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
WV DEP Trust	33.7	32.5	32.2	32.5	14.0	15.0	0.0	0.0	0.0	0.0	20.1	20.0	0.0	0.0
WV DEP Agency	21.0	20.0	19.5	20.0	38.4	40.0	0.0	0.0	0.0	0.0	19.1	20.0	2.0	0.0

West Virginia Investment Management Board

Footnotes

As of November 30, 2015

- (a) As of January 2014, the PERS Policy is 30% Russell 3000, 30% MSCI ACW ex USA (IMI), and 40% Barclays Capital Universal. From April 2008 to December 2013, the PERS Policy was 30% Russell 3000, 30% MSCI ACW ex USA (Standard), and 40% Barclays Capital Universal. Prior periods were 42% Russell 3000, 18% MSCI ACW ex USA, and 40% Barclays Capital Aggregate.
- (b) As of January 2014, the Total Equity Policy Index is 50% Russell 3000 and 50% MSCI ACW ex USA (IMI). From April 2008 to December 2013, the Total Equity Policy Index was 50% Russell 3000 and 50% MSCI ACW ex USA (Standard). Prior periods were 40% S&P 500, 30% Russell 2500, and 30% MSCI ACW ex USA.
- (c) Prior to January 2014, the index was the MSCI ACW ex USA (Standard).
- (d) Prior to April 2008, the index was Barclays Capital Aggregate.
- (e) Prior to January 2014, the index was Citigroup 90 Day T-Bill plus 15 basis points.
- (f) The Private Equity Composite and Real Estate Composite are long-term programs whose benchmarks are only reported for 5 years and beyond.
- (g) Prior to January 2014, the index was S&P 500 plus 500 basis points.
- (h) Prior to January 2014, the index was Libor plus 400 basis points.
- (i) Franklin Benchmark is 50% JPM EMBI Global Diversified and 50% JPM GBI EM Diversified.
- (j) Prior to April 2008, the index was a custom index.
- (k) Security Capital Benchmark is 40% Wilshire US REIT Index, 30% Wells Fargo Hybrid & Preferred Securities REIT Index, and 30% BC REIT Bond Index.

Note: Participant returns are net of fees. Portfolio returns are net of management fees. Returns shorter than one year are unannualized.



Status Report:
Workers' Compensation

Joint Committee on Government & Finance

January 2016

Provided by the West Virginia Offices of the Insurance Commissioner



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Introduction

With the passage of S.B. 1004 in January 2005, significant changes were made to workers' compensation insurance in West Virginia. The State administered monopolistic fund effectively ended when a new domestic mutual insurance company, "BrickStreet", was formed to issue workers' compensation insurance on a going forward basis. BrickStreet began writing new workers' compensation insurance liabilities effective January 2006. (They also retained the workers' compensation insurance premium and incurred liability starting in July 2005.) The West Virginia workers' compensation insurance market was later opened to competition beginning in July 2008.

At the time when the domestic mutual insurance company was formed in order to begin to privatize the workers' compensation insurance market in West Virginia, a large legacy liability existed stemming from the historical operation of the State administered monopolistic fund. Subsequent to privatization, this legacy liability was retained by the State of West Virginia in what is now known as the "Old Fund." The Old Fund consists of all historical claims with dates of injuries or last exposure through June 30, 2005. Apart from those sections which specifically reference other "funds," the "private market," or the "self-insured" community (which began in July 2004), this report concerns the workers' compensation legacy liability of the State of West Virginia, i.e. the Old Fund.

At January 2008, there were 47,961 active Old Fund workers' compensation insurance claims. The first Workers' Compensation Status Report to the Joint Committee on Government and Finance was issued in June 2008. The following pages update the status of the various workers' compensation funds and the activities associated with the administration of the workers' compensation responsibilities transitioned to the Offices of the Insurance Commissioner.

Definitions:

Appeal (BOR): A formal procedure conducted by the Board of Review at which a decision of an administrative law judge (OOJ) having presided over a matter of workers' compensation (Old Fund or Privately Insured) is to be afforded additional consideration. An appeal may be filed by any aggrieved party, such as a claimant, employer, dependent of a claimant, private insurance carrier, etc.

Board of Review: (BOR) A three judge panel that serves as an intermediate appellate tribunal in workers' compensation litigation. Specifically, the Board of Review reviews all appeals taken from any final decision of the Office of Judges. The BOR may reverse, vacate, modify or remand a decision of the Office of Judges. Any appeal taken from a Board of Review final order must be filed with the West Virginia Supreme Court of Appeals.

Claim Reserve: individual claim level cost estimate that is projected on the ultimate probable exposure; must be the best projection based on the facts and findings of the claim. This function is to capture the key components that impact the range of any impending cost in workers' compensation claims. No discounting is applied. The Indemnity Reserve is adjusted to cover the cost of loss or exposure both on a temporary and permanent basis. The reserve should also be adjusted to include the projected cost of any death and/or dependent benefits when appropriate. The Medical Reserve covers medical cost, hospital stays, specialized treatment, rehabilitation, durable medical equipment, and medications, etc. The Expense Reserve is placed for the cost of legal defense and investigations, etc. The reserves may be reduced based on the findings of early mortality factors.

Coal Workers' Pneumoconiosis Fund (CWP): State managed fund into which FBL premiums previously received are held, and out of which FBL benefits are paid. This fund was closed to future liabilities as of 12/31/2005. Because of the latency period between the date of last exposure and the onset of disease, new FBL claims will occur.

Fatal: claim under which the worker died as a result of injury or illness.

FBL: claim for Occupational Pneumoconiosis (Black Lung) benefits under Title IV of the federal Coal Mine Health and Safety Act of 1969, i.e. Federal Black lung, or FBL.

FBL Awarded Claim: an FBL claim that has been awarded but has not yet been accepted by the responsible operator/insurer

FBL Claim Notice: an FBL claim for which not initial decision has yet been made, but evidence in the claims indicates the potential for an award

FBL Non-active Claim: an FBL claim for which an award had been sought, but was not afforded. Federal statutes permit an appeal process which lasts for 1 year, so the claim would be reopened for consideration upon appeal. Denied FBL claims are closed administratively after 6 months, as the TPA's bill for claims management services monthly on an open claims basis.

FBL Paying Claim: an FBL claim for which an award has been made and the responsible operator/insurer has accepted liability. Payments are being made to the claimant or dependents.

Indemnity: statutory wage replacement benefits awarded as a result of a worker's occupational illness or injury.

Med Only: claim under which only the payment of medical benefits were sought or awarded, i.e. no payment of wage replacement benefits (indemnity) is being made.

Office of Judges: (OOJ) An office comprised of administrative law judges who are charged with resolving protests or appeals to workers' compensation claims management decisions. The Office of Judges conducts hearings, receives and weighs evidence and arguments, and issues written decisions on protests or appeals from initial claim management decisions. Any final decision of the Office of Judges may be appealed to the workers' compensation Board of Review. The OOJ hears protests involving Old Fund claims as well as those arising from the private market (private carrier or privately insured.)

Old Fund: The residual assets and liabilities of the former Worker's Compensation Fund are now reported in a fund known as the Workers' Compensation Old Fund. Disbursements from the Old Fund are related to the liabilities and appropriate administrative expenses necessary for the administration of all claims, actual and incurred but not reported, for any claims with a date of injury on or before June 30, 2005.

OP/OD: claim of Occupational Pneumoconiosis or Occupational Disease. An OP claim could be considered the State level equivalent of an FBL claim; however, State OP claims provide for varying percentages of impairment where the FBL applicant must prove total impairment to be eligible. (State OP claims are awarded more frequently than FBL, but afford lesser benefits.) An example of an OD claim would be occupational hearing loss.

Protest (OOJ): An objection to a ruling of a workers' compensation claim administrator (Old Fund or Private Market) which prompts the initiation of the adjudication process at the Office of Judges.

PPD: (Permanent Partial Disability) paid to compensate an injured worker for permanent impairment that results from an occupational injury or disease. The American Medical Association defines permanent impairment as impairment that has become static or well stabilized with or without medical treatment and is not likely to remit despite medical treatment. It should be noted, some injuries that are total loss by severance have statutory impairment ratings that are defined per WV Code §23-4-6(f). Payment for PPD is based upon 4 weeks of compensation for each one percent of disability.

PTD: (Permanent Total Disability) A disability which renders a claimant unable to engage in gainful employment requiring skills or abilities which can be acquired or which are comparable to those of any gainful employment in which the claimant previously engaged with some regularity. While the comparison of pre-injury income and post-disability income is not a factor to be considered in determining whether or not a claimant is permanently and totally disabled, the geographic availability of gainful employment should be considered. Specifically, the geographic availability of gainful employment within a 75 mile driving distance

of the claimant's home, or within the distance from the claimant's home to his or her pre-injury employment, whichever is greater, is a factor to be considered in determining whether or not a claimant is PTD.

Self-Insured: an employer who has met certain specific guidelines, and who is then permitted to guarantee their own payment and handling of workers' compensation claims to their employees in accordance with WV statutes.

Self-Insured Guaranty Fund: State managed fund consisting of those funds transferred to it from the guaranty pool created pursuant to 85 CSR §19 (2004) and any future funds collected through continued administration of that exempt legislative rule as administered by the WVOIC and out of which workers' compensation benefits may be paid. Covers claims liabilities of bankrupt or defaulted self-insured employers with dates of injury or last exposure after 07/01/2004.

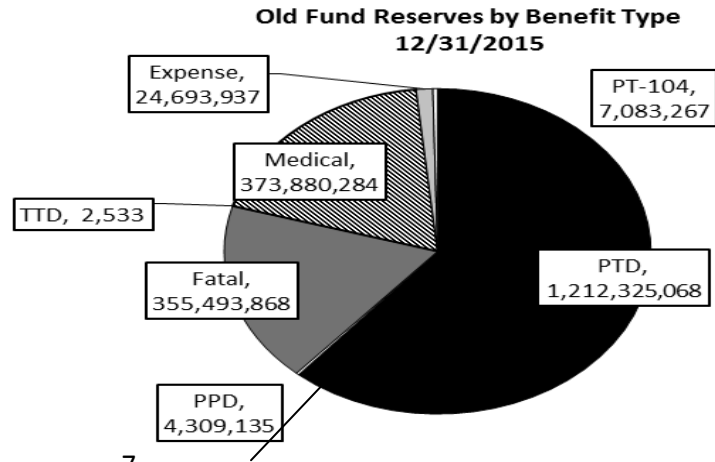
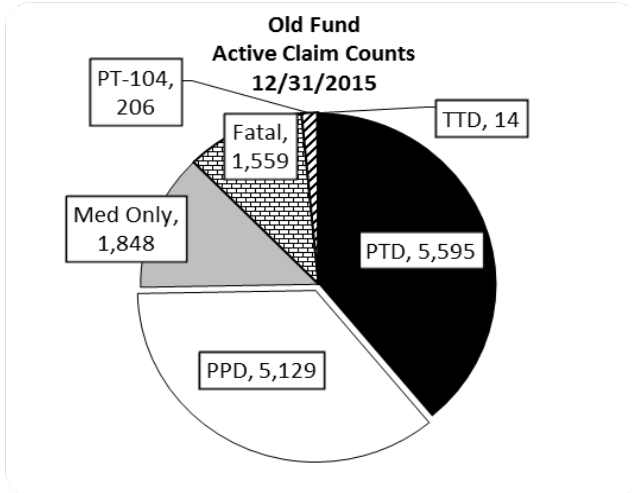
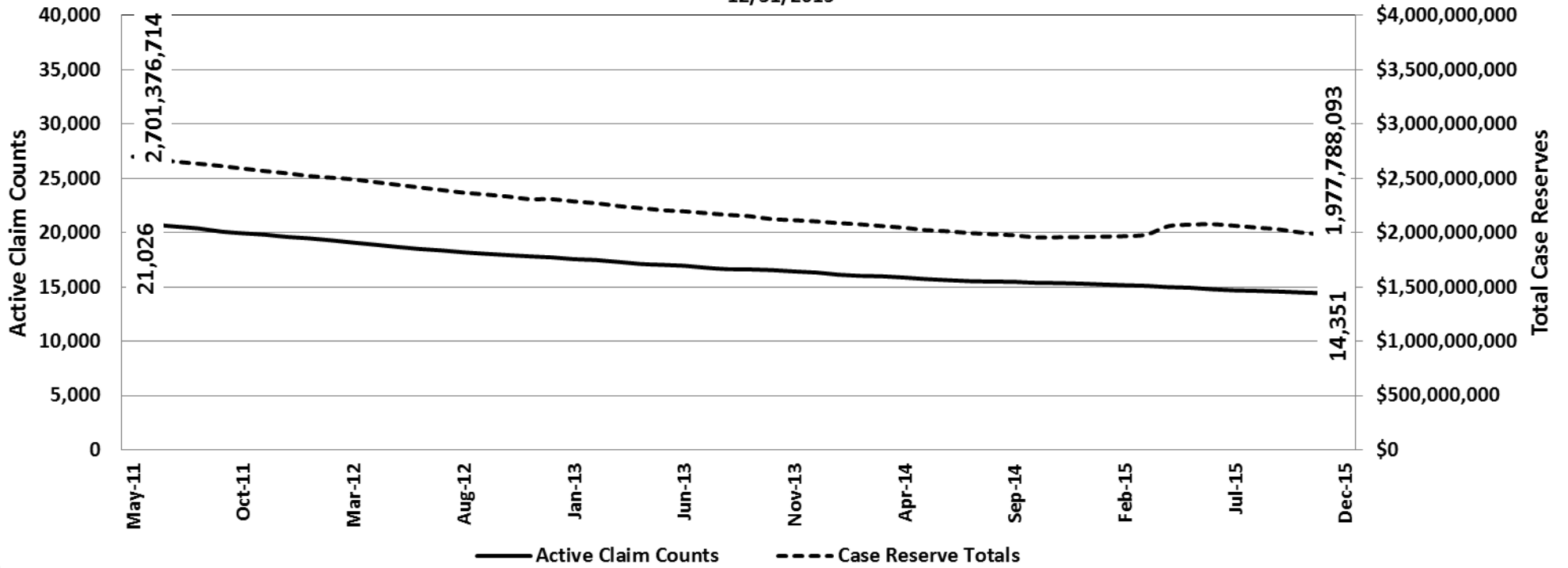
Self-Insured Security Fund: State managed fund consisting of those funds paid into it thru the WVOIC's administration of 85 CSR §19 (2004) , and out of which workers' compensation benefits may be paid. Covers claims liabilities of bankrupt or defaulted self-insured employers with dates of injury or last exposure before 07/01/2004. This fund is limited to claimants of those self-insured employers who have defaulted on their claims obligations after 12/31/2005.

TPD: (Temporary Partial Disability) also referred to as TPR, is paid when an injured worker is released to return to work with restrictions or modifications that restrict he/she from obtaining their pre-injury wages. The TPD benefit is paid at seventy percent of the difference between the average weekly wage earnings earned at the time of injury and the average weekly wage earnings earned at the new employment.

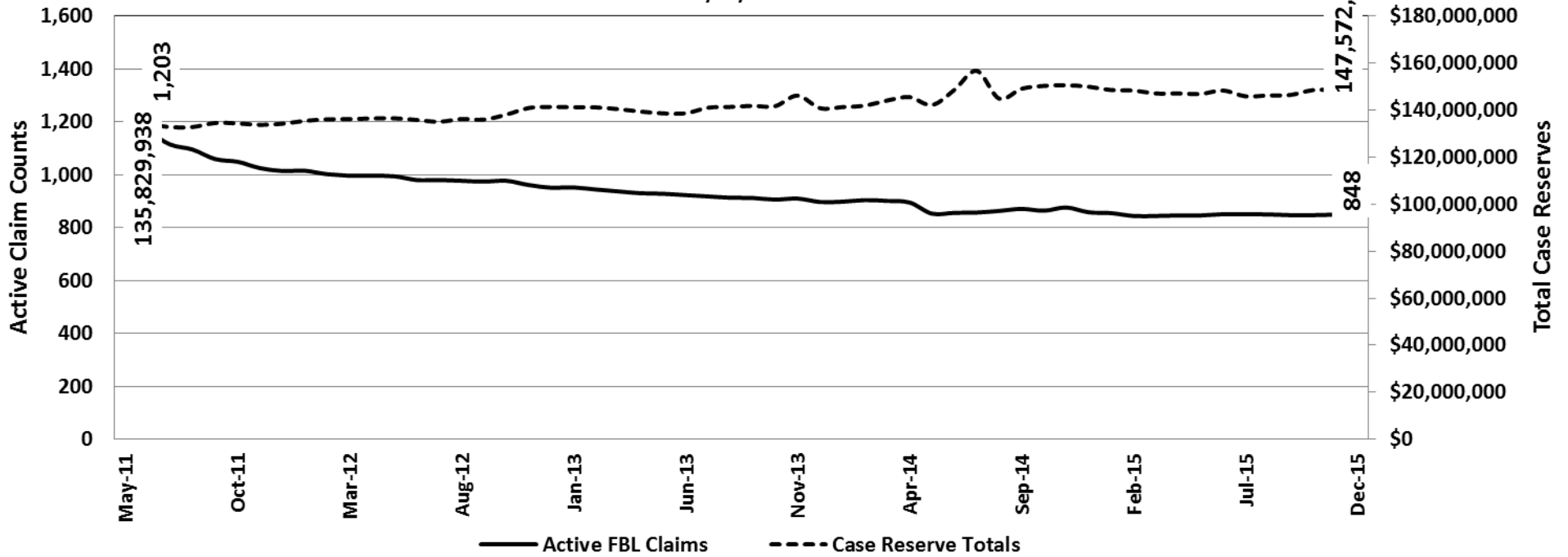
TTD: (Temporary Total Disability) an inability to return to substantial gainful employment requiring skills or activities comparable to those of one's previous gainful employment during the healing or recovery period after the injury. In order to receive TTD benefits, the injured worker must be certified disabled due to the compensable injury by his/her treating physician.

Uninsured Fund: State managed fund into which assessments to carriers or employers received are held, and out of which workers' compensation benefits may be paid to claimant employees of employers who were uninsured if the date of injury or date of last exposure is January 1, 2006 or later.

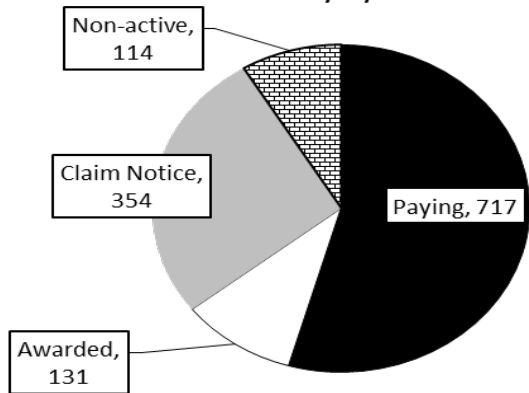
**Old Fund
Active Claim Counts and Case Reserves
12/31/2015**



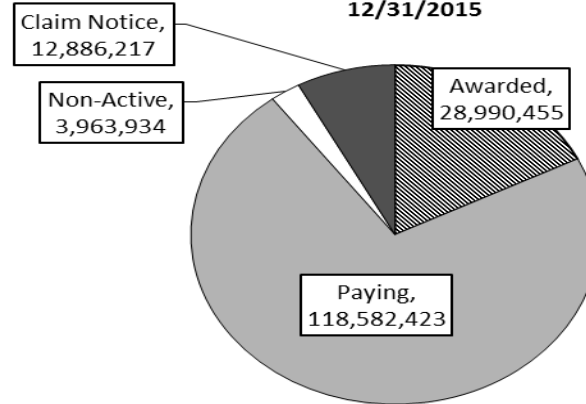
**CWP Fund (FBL)
Active Claim Counts and Case Reserves
12/31/2015**



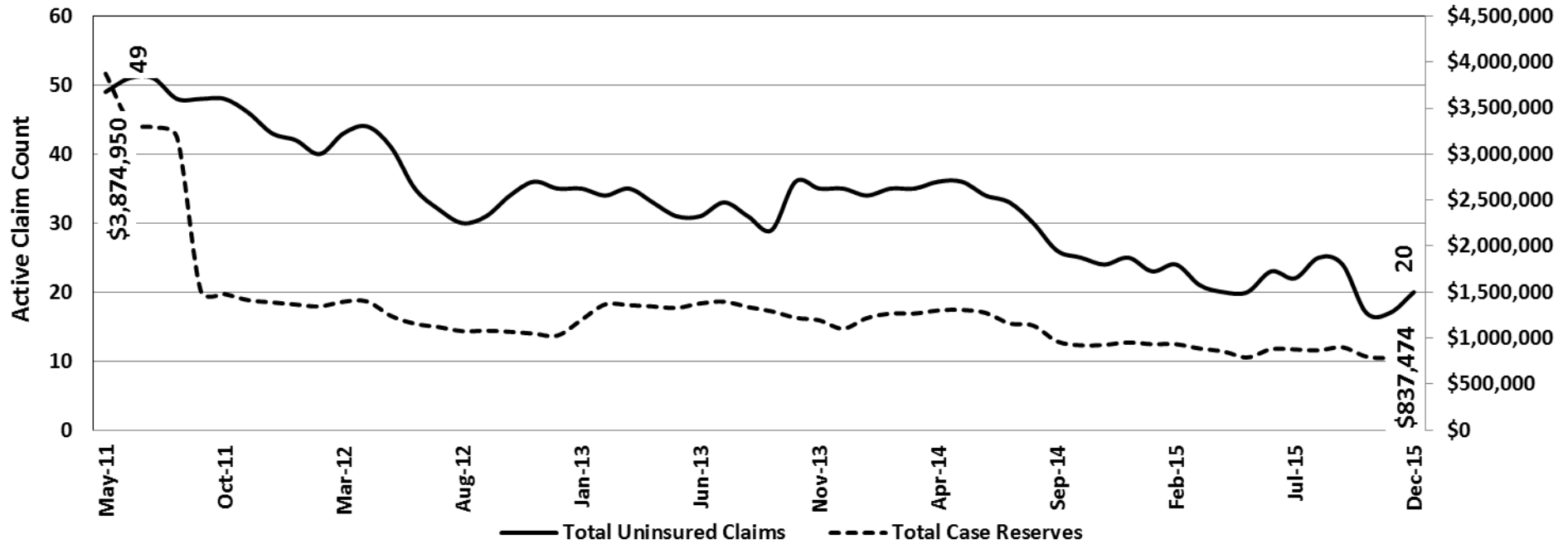
**CWP Fund (FBL)
Active and Inactive Claims
12/31/2015**



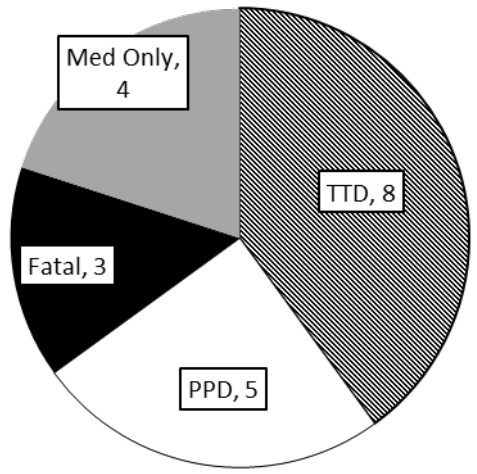
**CWP Fund Reserves by Benefit Type
12/31/2015**



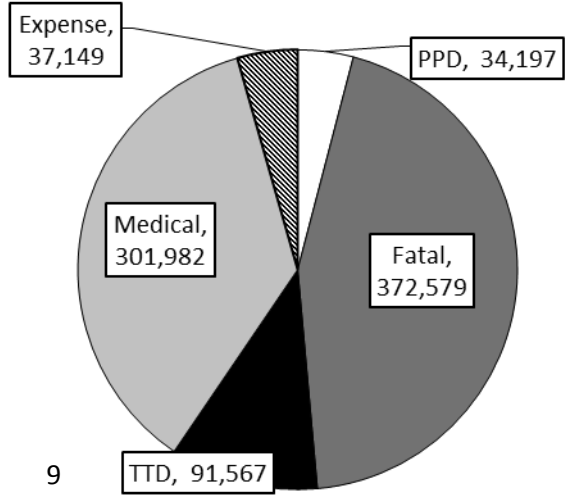
**Uninsured Fund
Active Claim Counts and Case Reserves
12/31/2015**



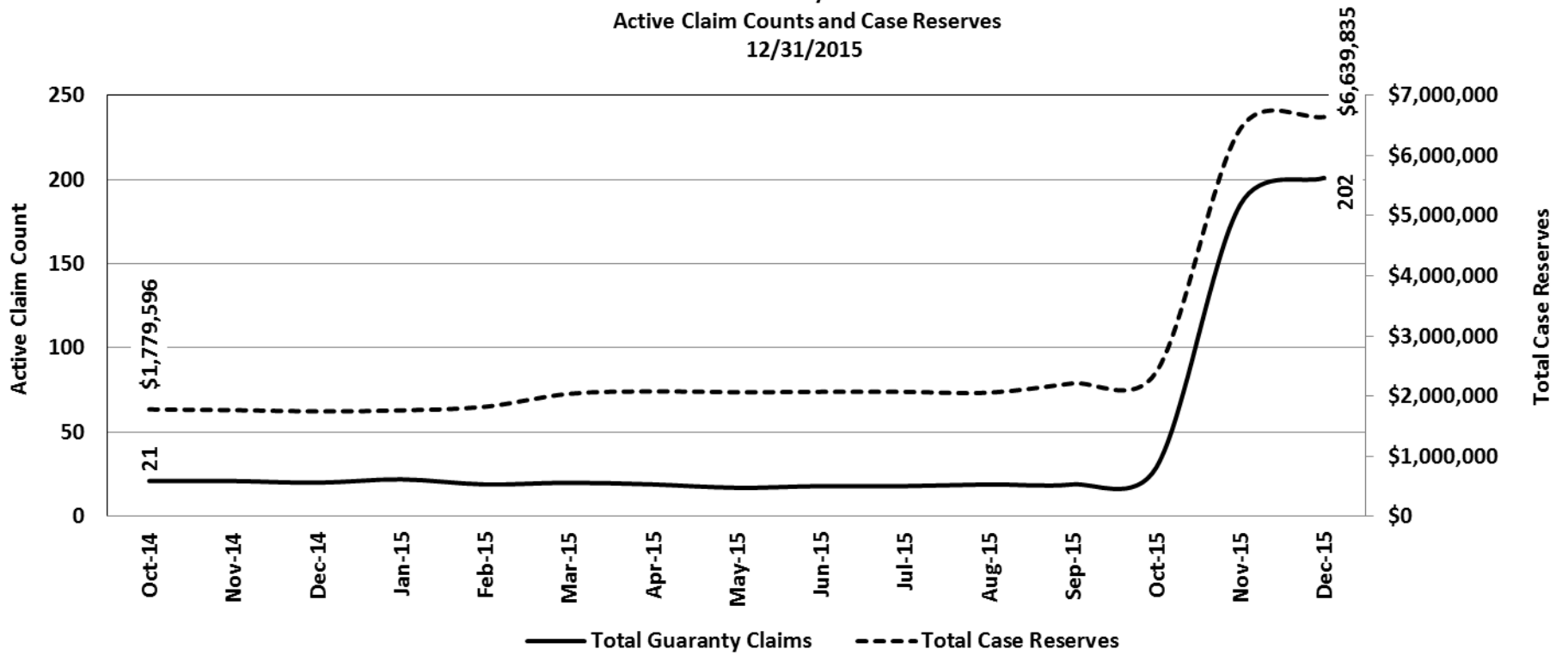
**Uninsured Fund
Active Claim Counts
12/31/2015**



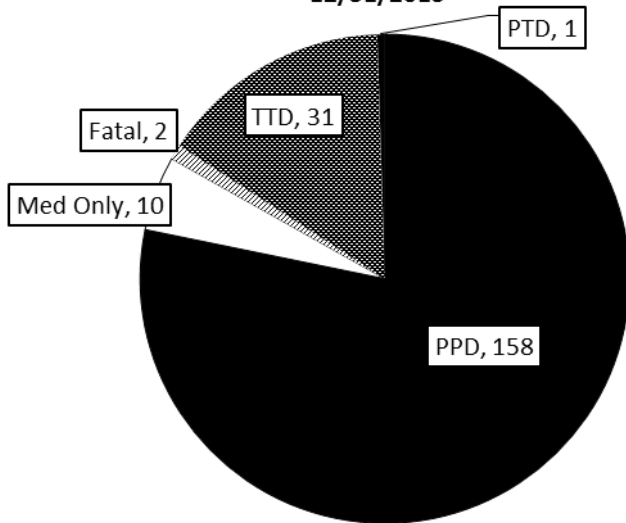
**Uninsured Fund Reserves by Benefit Type
12/31/2015**



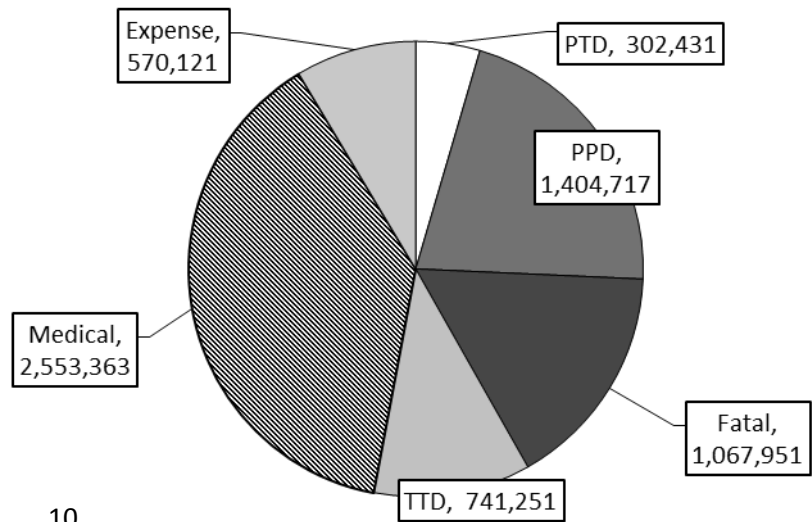
**Guaranty Fund
Active Claim Counts and Case Reserves
12/31/2015**



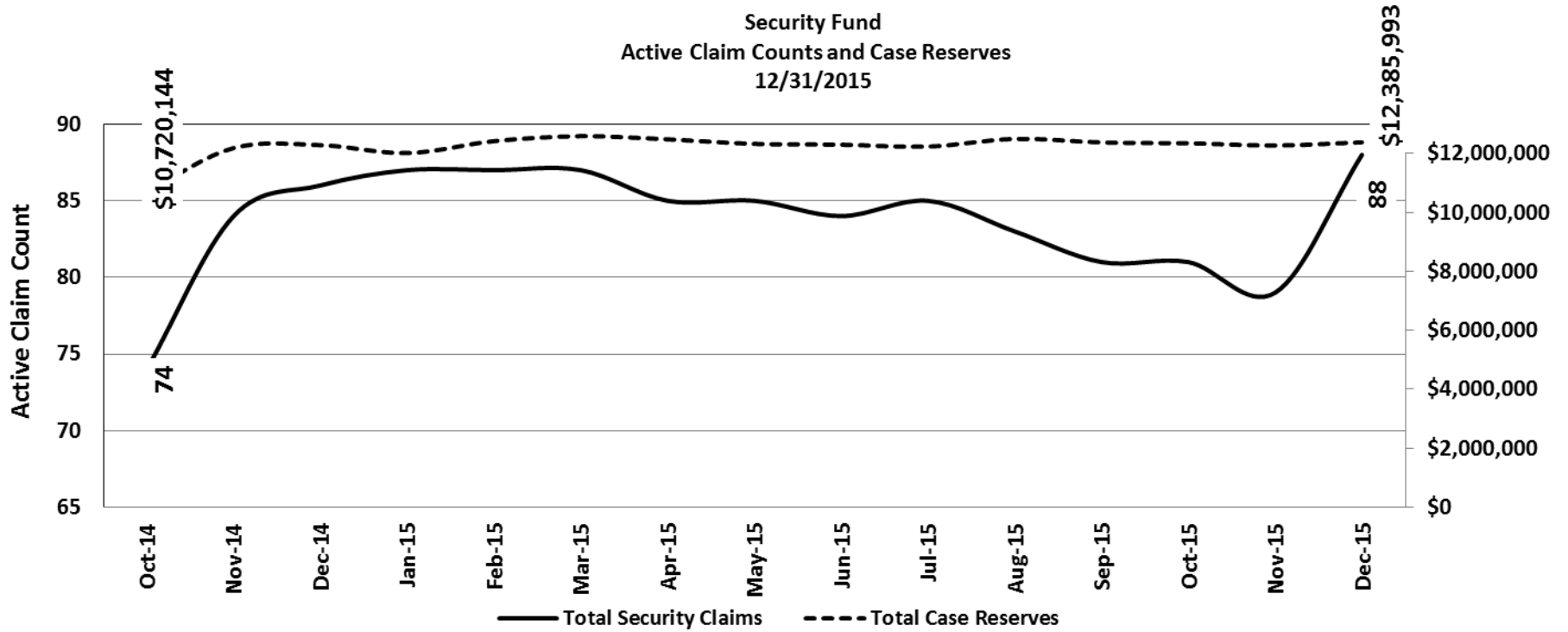
**Guaranty Fund
Active Claim Counts
12/31/2015**



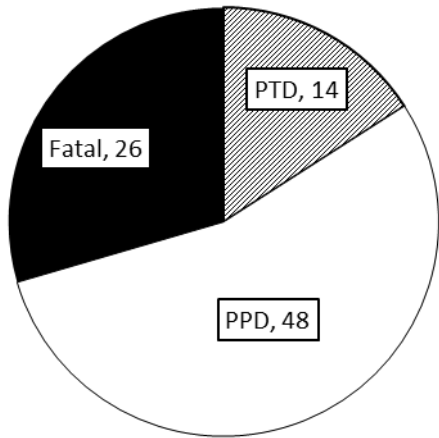
**Guaranty Fund Reserves by Benefit Type
12/31/2015**



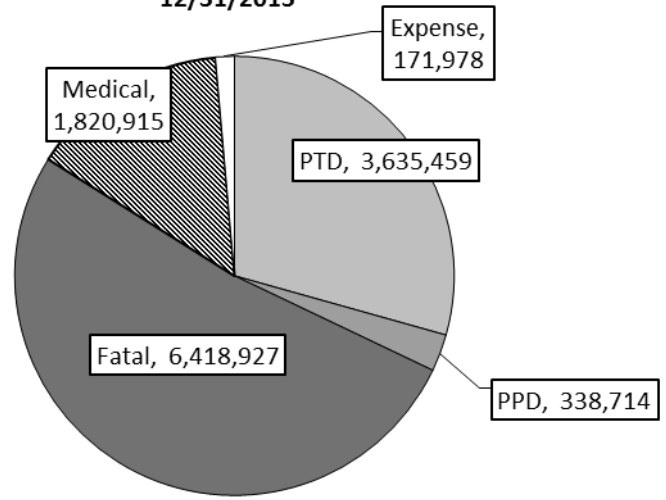
**Security Fund
Active Claim Counts and Case Reserves
12/31/2015**



**Security Fund
Active Claim Counts
12/31/2015**



**Security Fund Reserves by Benefit Type
12/31/2015**



OLD FUND CASH STATEMENT
December 31, 2015

	Three Year History for years ended:					
	YTD FY2016	YTD FY2015	Change	FY2015	FY2014	FY2013
Cash Beginning Balances	1,311,665,427	1,190,142,811	121,522,616	1,190,142,811	1,061,595,681	942,505,408
Revenues						
Personal Income Tax	31,800,000	31,800,000	-	95,400,000	95,400,000	95,400,000
Severance Tax	57,972,148	57,460,419	511,729	125,703,925	109,467,900	94,562,969
Debt Reduction Surcharge	17,972,395	18,376,599	(404,204)	34,106,221	34,138,820	36,853,941
Self-Insured Debt Reduction Surcharge	3,904,965	4,153,950	(248,985)	8,859,759	8,493,207	8,733,494
Video Lottery	4,474,135	4,821,943	(347,808)	11,000,000	11,000,000	11,000,000
Employer Premium	42,878	75,959	(33,081)	202,532	284,075	335,102
Other Income - Return of Unclaimed Property	8,672	-	8,672	153,763	92,953	48,332
Operating Revenues	116,175,192	116,688,870	(513,678)	275,426,199	258,876,955	246,933,837
Investment / Interest Earnings (Losses)	(29,172,668)	10,938,250	(40,110,919)	34,715,474	67,734,120	77,380,803
Total Revenues	87,002,524	127,627,120	(40,624,597)	310,141,673	326,611,075	324,314,640
Expenditures						
Claims Benefits Paid:						
Medical	13,516,396	15,179,639	(1,663,242)	29,881,043	31,791,671	33,512,816
Permanent Total Disability	49,969,232	53,170,177	(3,200,945)	104,948,107	111,490,282	118,396,619
Permanent Partial Disability	121,468	218,884	(97,416)	353,749	720,723	1,137,910
Temporary Disability	-	-	-	-	7,741	59,227
Fatals	12,225,733	12,799,458	(573,725)	25,497,598	26,407,057	26,966,847
104 weeks death benefit	3,430,477	2,872,721	557,756	5,883,387	6,200,020	6,670,578
Settlements	6,328,385	6,693,146	(364,761)	12,206,388	9,136,495	9,011,730
Loss Adjustment Expenses	1,192,010	1,022,142	169,867	2,029,136	1,467,221	998,774
Total	86,783,701	91,956,167	(5,172,465)	180,799,408	187,221,209	196,754,501
Less: Claims credits and overpayments	832,198	544,510	287,689	2,240,415	3,265,629	4,617,178
Total Benefits Paid	85,951,503	91,411,657	(5,460,154)	178,558,993	183,955,580	192,137,323
Administrative Expenses	4,339,367	4,942,884	(603,518)	10,060,064	14,108,365	13,087,043
Total Expenditures	90,290,870	96,354,541	(6,063,672)	188,619,057	198,063,945	205,224,366
Excess (Deficiency) of Revenues over Expenditures	(3,288,346)	31,272,579	(34,560,925)	121,522,616	128,547,130	119,090,274
Cash Ending Balances	1,308,377,081	1,221,415,390	86,961,691	1,311,665,427	1,190,142,811	1,061,595,681

Note: The purpose of the report is to enhance the user's ability to monitor the cash activities of the Old Fund. The Old Fund assets consist of the Old Fund cash, IMB and BTI Investment accounts and any deposits in transit from the Debt Reduction Fund. The liabilities of the Old Fund consist of the worker's compensation claims and related expenses for all claims, actual and incurred but not reported for claims with dates of injury on or before June 30, 2005. This report is intended to provide a summary of the cash based transactions related to the Fund's assets and liabilities and is not an accrual based presentation. The Old Fund Cash Statement is unaudited information.

COAL WORKERS PNEUMOCONIOSIS FUND
December 31, 2015

	YTD FY2016	YTD FY2015	Change	Three Year History for years ended:		
				FY2015	FY2014	FY2013
Cash Beginning Balances	264,657,327	267,173,190	(2,515,863)	267,173,190	266,720,430	254,523,752
Revenues						
Other Income - Return of Unclaimed Property	-	-	-	876	-	-
Investment Earnings (Losses)	(7,183,520)	3,569,224	(10,752,744)	10,347,881	17,915,475	24,801,113
Total Revenues	(7,183,520)	3,569,224	(10,752,744)	10,348,758	17,915,475	24,801,113
Expenditures						
Payment of Claims	5,793,855	6,779,390	(985,535)	11,990,810	17,376,923	12,550,216
Contractual / Professional	402,531	510,325	(107,794)	873,390	85,747	53,287
Legal	-	-	-	-	-	932
General and Administrative	150	180	(30)	420	45	-
Total Expenditures	6,196,536	7,289,895	(1,093,359)	12,864,620	17,462,715	12,604,435
Excess (Deficiency) of Revenues over Expenditures	(13,380,056)	(3,720,671)	(9,659,385)	(2,515,863)	452,760	12,196,678
Cash Ending Balances	251,277,271	263,452,519	(12,175,247)	264,657,327	267,173,190	266,720,430

Note: The Coal Worker's Pneumoconiosis Fund (CWP Fund) ceased operations December 31, 2005 and is in run-off status under the administrative oversight of the Insurance Commissioner. Established in 1973, the CWP Fund existed to provide insurance coverage to companies for liabilities incurred as a result of the Federal Coal Mine Health and Safety Act of 1969. Participation in the CWP Fund was voluntary for employers. The current revenues of the CWP Fund are limited to the earnings from invested assets. The liabilities of the CWP Fund consist of the claims for coal miners who are totally disabled or beneficiaries of coal miners who have died as a result of coal worker's pneumoconiosis. To be eligible for benefits from the CWP Fund, the date of last exposure of the coal miner must be on or before December 31, 2005. The Coal Workers Cash Statement is unaudited information.

SELF-INSURED GUARANTY RISK POOL
December 31, 2015

	YTD FY2016	YTD FY2015	Change	Three Year History for years ended:		
				FY2015	FY2014	FY2013
Cash Beginning Balances	16,014,340	15,603,319	411,021	15,603,319	14,815,337	10,829,975
Revenues						
Guaranty Risk Pool Assessments	-	34,328	(34,328)	89,571	124,520	851,410
Collateral Proceeds	17,966,595	-	17,966,595	-	-	2,399,380
Investment Earnings (Losses)	(426,337)	202,076	(628,413)	612,972	1,027,230	1,186,338
Total Revenues	17,540,258	236,405	17,303,853	702,542	1,151,751	4,437,128
Expenditures						
Payment of Claims	267,259	98,679	168,580	263,947	255,607	332,894
Contractual / Professional	15,831	19,884	(4,053)	27,575	107,348	92,122
Legal	-	-	-	-	815	26,750
Total Expenditures	283,089	118,562	164,527	291,522	363,769	451,765
Excess (Deficiency) of Revenues over Expenditures	17,257,169	117,842	17,139,326	411,021	787,981	3,985,363
Cash Ending Balances	33,271,508	15,721,161	17,550,347	16,014,340	15,603,319	14,815,337

The Self-Insured Guaranty Risk Pool covers the claims liabilities of bankrupt or defaulted self-insured employers with dates of injury subsequent to July 1, 2004. The revenues of the Self-Insured Guaranty Fund are comprised of the guaranty risk pool assessments levied on all self-insured employers and the earnings on invested assets. The Self Insured Guaranty Cash Statement is unaudited information.

SELF-INSURED SECURITY RISK POOL
December 31, 2015

	YTD FY2016	YTD FY2015	Change	Three Year History for years ended:		
				FY2015	FY2014	FY2013
Cash Beginning Balances	9,208,803	7,137,316	2,071,487	7,137,316	6,754,601	203,518
Revenues						
Security Risk Pool Assessments	230,340	144,043	86,297	1,114,180	1,072,311	2,575,705
Collateral Proceeds	47,503,193	1,425,061	46,078,132	1,425,061	-	4,657,620
Investment Earnings (Losses)	(246,170)	91,097	(337,267)	310,550	151,334	-
Total Revenues	47,487,363	1,660,201	45,827,162	2,849,791	1,223,645	7,233,325
Expenditures						
Payment of Claims	843,917	356,168	487,749	736,434	789,254	530,804
Contractual / Professional	43,796	20,821	22,975	41,774	48,446	60,413
Legal	-	96	(96)	96	3,230	91,025
Total Expenditures	887,713	377,085	510,628	778,304	840,930	682,242
Excess (Deficiency) of Revenues over Expenditures	46,599,650	1,283,116	45,316,534	2,071,487	382,715	6,551,083
Cash Ending Balances	55,808,453	8,420,432	47,388,021	9,208,803	7,137,316	6,754,601

The Self-Insured Security Risk Pool is liable for the worker's compensation claims of bankrupt or defaulted self-insured employers with dates of injury prior to July 1, 2004. However, the obligations of this Fund are limited to the exposures of self-insured employers who default subsequent to December 31, 2005. The Self Insured Security Cash Statement is unaudited information.

UNINSURED EMPLOYERS FUND
December 31, 2015

				Three Year History for years ended:		
	YTD FY2016	YTD FY2015	Change	FY2015	FY2014	FY2013
Cash Beginning Balances	12,125,188	11,714,178	411,010	11,714,178	10,801,353	9,574,065
Revenues						
Fines and Penalties	339,826	375,265	(35,440)	765,082	768,532	747,771
Investment Earnings (Losses)	(291,648)	132,149	(423,797)	408,442	682,644	871,603
Total Revenues	<u>48,177</u>	<u>507,414</u>	<u>(459,237)</u>	<u>1,173,523</u>	<u>1,451,176</u>	<u>1,619,374</u>
Expenditures						
Payment of Claims	67,391	499,853	(432,462)	589,781	286,421	262,002
Contractual/Professional	4,493	7,684	(3,191)	8,922	26,825	15,024
General and Administrative	45	30	15	60	105	60
Insurance	107,500	55,000	52,500	163,750	225,000	115,000
Total Expenditures	<u>179,429</u>	<u>562,567</u>	<u>(383,138)</u>	<u>762,513</u>	<u>538,351</u>	<u>392,086</u>
Excess (Deficiency) of Revenues over Expenditures	<u>(131,252)</u>	<u>(55,153)</u>	<u>(76,099)</u>	<u>411,010</u>	<u>912,825</u>	<u>1,227,288</u>
Cash Ending Balances	<u><u>11,993,937</u></u>	<u><u>11,659,025</u></u>	<u><u>334,911</u></u>	<u><u>12,125,188</u></u>	<u><u>11,714,178</u></u>	<u><u>10,801,353</u></u>

The Uninsured Employer's Fund (UEF) was established January 1, 2006 to provide worker's compensation benefits to injured workers of uninsured WV employers. The revenues of the UEF consist of fines levied on uninsured employers and the earnings on invested assets. The Insurance Commissioner has the right to levy assessments on employers in order to maintain the solvency of the Fund. The Commissioner may recover all payments made from this fund, including interest, from an uninsured employer who is found liable for benefits paid from the UEF. The Uninsured Cash Statement is unaudited information.

OFFICE OF JUDGES

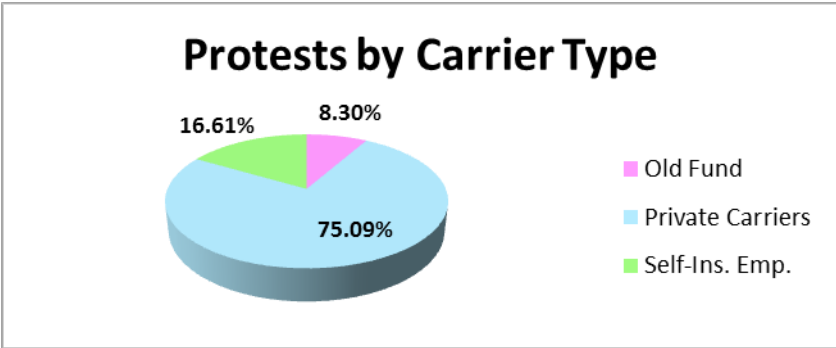
STATISTICAL ANALYSIS

Protests Acknowledged:	<u>2014</u>	<u>Dec.</u>	<u>2015</u>
	4090	277	3709

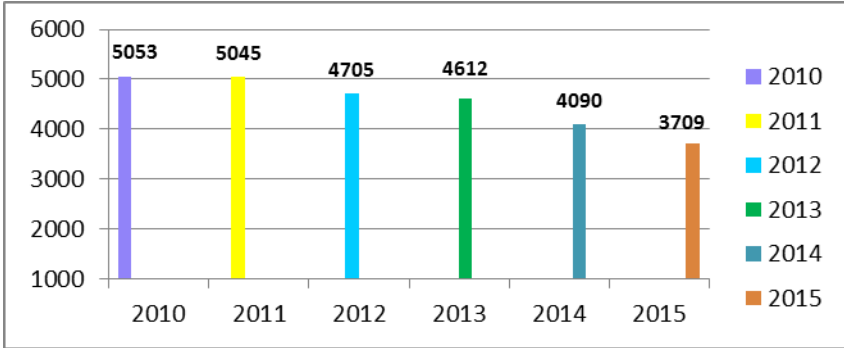
FUND	2014	% of Protests	Dec. 2015	% of Protests	2015	% of Protests
Old Fund	348	8.51%	23	8.30%	345	9.30%
Private Carriers	3048	74.52%	208	75.09%	2700	72.80%
Self-Insured Employers	694	16.97%	46	16.61%	664	17.90%
Subtotal	4090		277		3709	
Temporary Category	615		45		462	
Total	4705		322		4171	

Source: AIMS Database Reports

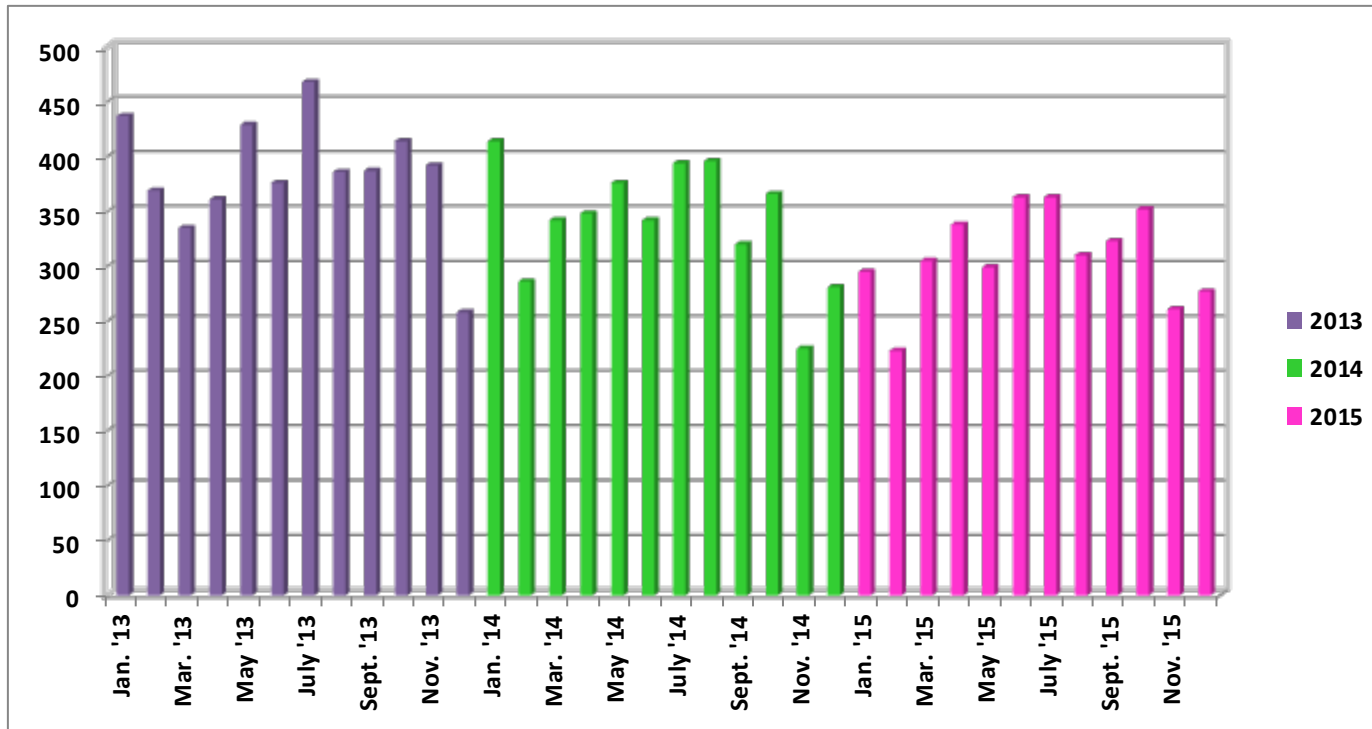
**Protests Acknowledged in December 2015
by Carrier Type**



Protests Acknowledged by Year



PROTEST COMPARISON BY MONTH/YEAR



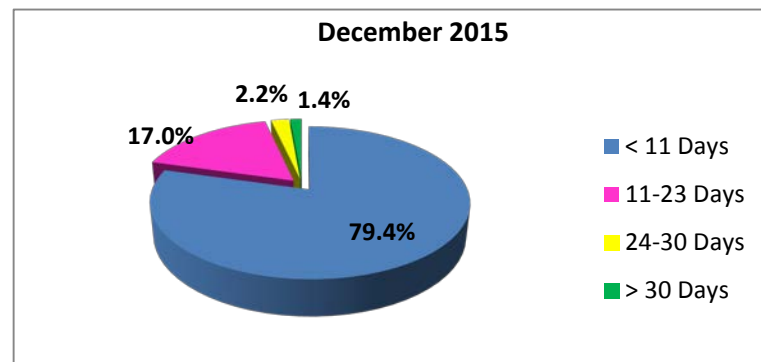
PROTEST ACKNOWLEDGMENTS – DECEMBER, 2015

Protest Acknowledgement Goal 12/1/2015 thru 12/31/2015									
Description	Acknowledged	Days to Acknowledgement							
		> 30 Days		30 - 24		23 - 11		<11	
		Count	%	Count	%	Count	%	Count	%
BENEFIT OVERPAYMENT	Total: 1	0	0	0	0	0	0	1	100
CBP-CL SI BEN. OVR PAYMT	1	0	0	0	0	0	0	1	100
BENEFIT RATE	Total: 1	0	0	0	0	0	0	1	100
CBR-CL PRSTS BEN RATE	1	0	0	0	0	0	0	1	100
COMPENSABILITY	Total: 49	1	2	3	6	11	22	34	69
CCS-CL SEC.CONDITION	11	0	0	0	0	0	0	11	100
CIS-CL SI SEC.CONDITION	3	0	0	0	0	0	0	3	100
CLB-CL COMP ON LIMITED BASIS	3	0	0	1	33	1	33	1	33
CLB-CL SI COMP ON LIMITED BASIS	2	0	0	0	0	0	0	2	100
CPI-CL SI REJECT CLAIM	4	0	0	1	25	2	50	1	25
CPJ-CL REJECT CLAIM	21	1	4	1	4	7	33	12	57
CQR-CL SI REJ OCCDISEASE	1	0	0	0	0	0	0	1	100
CRZ-CL REJ OCC DISEASE	4	0	0	0	0	1	25	3	75
FAILURE TO ACT 15 DAY	Total: 1	0	0	0	0	0	0	1	100
FTA Multiple Issues-FTA MULTIPLE ISSUES	1	0	0	0	0	0	0	1	100
FAILURE TO ACT 30 DAY	Total: 2	0	0	0	0	2	100	0	0
C7A-CL FTA RO TTD/MED	1	0	0	0	0	1	100	0	0
C7D-CL FTA REF FOR EXAM	1	0	0	0	0	1	100	0	0
OP NON-MED	Total: 1	0	0	0	0	0	0	1	100
CIR-CL SI NON-MED ORDER	1	0	0	0	0	0	0	1	100
OPBD	Total: 30	0	0	0	0	5	16	25	83
CAO-CL ADD BOARD FINDING	4	0	0	0	0	0	0	4	100
CBF-CL % BOARD FINDING	13	0	0	0	0	3	23	10	76
CSF-CL% SI BOARD FINDING	3	0	0	0	0	1	33	2	66
CSO-CL SI AD.BRD FINDING	1	0	0	0	0	0	0	1	100
EAO-EM ADD BOARD FINDING	2	0	0	0	0	1	50	1	50
EBF-EM % BOARD FINDING	4	0	0	0	0	0	0	4	100
ESF-EM% SI BOARD FINDING	3	0	0	0	0	0	0	3	100
PPD	Total: 70	0	0	0	0	11	15	59	84
CAA-CL ADDL % AWARD D/G	7	0	0	0	0	1	14	6	85
CAD-CL % AWARD DENY/GRNT	53	0	0	0	0	10	18	43	81
CIE-CL SI ADD% AWARD D/G	1	0	0	0	0	0	0	1	100
CIG-CL SI %AWARD DNY/GNT	9	0	0	0	0	0	0	9	100
REHABILITATION	Total: 1	0	0	0	0	0	0	1	100
CPB-CL GRNT/DNY VOC REHA	1	0	0	0	0	0	0	1	100
REOPENING	Total: 9	0	0	0	0	0	0	9	100
CJV-CL DNY/GRNT R/O PPD	4	0	0	0	0	0	0	4	100

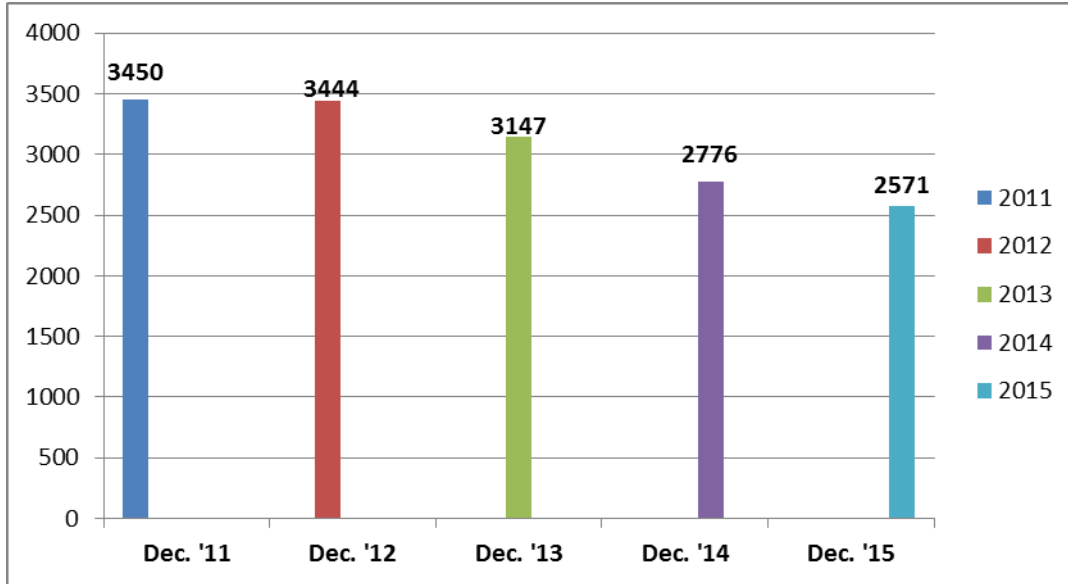
CRD-CL DENY/GRNT R/O TTD	5	0	0	0	0	0	0	5	100
SPECIAL CATEGORY	Total: 11	1	9	0	0	3	27	7	63
C1I-CL SI SL CATEGORY	2	1	50	0	0	0	0	1	50
CNW-CL SPL CATEGORY	9	0	0	0	0	3	33	6	66
TRMT/EQUIP CL	Total: 77	2	2	2	2	11	14	62	80
CBX-CL TRMT DENY	67	2	2	2	2	7	10	56	83
CHH-CL AUTH HA/RPR D/G	1	0	0	0	0	1	100	0	0
CSX-CL SI TRMT DENY	8	0	0	0	0	2	25	6	75
CYY-CL TRMT GRANT	1	0	0	0	0	1	100	0	0
TTD	Total: 24	0	0	1	4	4	16	19	79
CCC-CL CLOSING THE CLAIM	12	0	0	1	8	0	0	11	91
CIC-CL SI CLSING THE CLM	4	0	0	0	0	1	25	3	75
CIJ-CL SI TTD	3	0	0	0	0	0	0	3	100
CJS-CL TTD	3	0	0	0	0	2	66	1	33
CPX-CL INITIAL TTD	2	0	0	0	0	1	50	1	50
TOTALS:	277	4	1.4	6	2.2	47	17.0	220	79.4

PROTEST ACKNOWLEDGMENT TIMELINESS

Acknowledgment Timeliness	2014	Dec. '15	2015
Protest Ack. < 11 Days	81.7%	79.4%	80.5%
Protest Ack. 11 – 23 Days	12.1%	17.0%	14.3%
Protest Ack. 24 – 30 Days	1.9%	2.2%	2.5%
Protest Ack. > 30 Days	4.3%	1.4%	2.7%



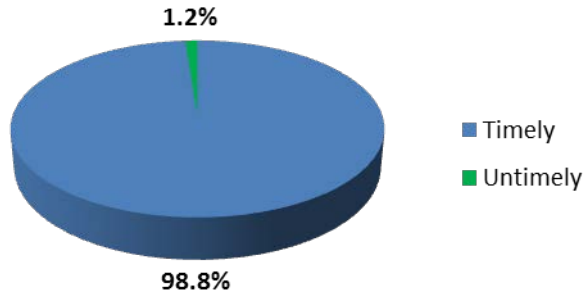
PENDING CASELOAD COMPARISON BY MONTH/YEAR



Pending as of Jan. 4, 2016	2571
Pending 1 Month Before	2581
Pending 2 Months Before	2599
Pending 3 Months Before	2550
Pending 6 Months Before	2535
Pending 12 Months Before	2776

TIME STANDARD COMPLIANCE

Time Standard Compliance
December 2015



2014	December	2015
94.1%	98.8%	95.2%

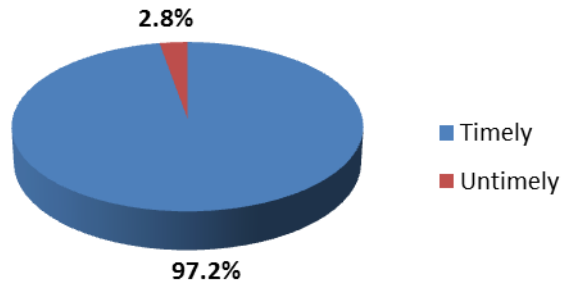
Time Standard Compliance – December 2015

Time Standard Compliance 12/1/2015 thru 12/31/2015					
Time Standard Categories	Issues	Timely		Late	
	Resolved	Count	%	Count	%
BENEFIT OVERPAYMENT	1	0	0	1	0
COMPENSABILITY	17	17	100	0	100
DEP BEN FATAL	2	2	100	0	100
OP NON-MED	1	1	100	0	100
OPBD	3	3	100	0	100
PPD	37	37	100	0	100
REOPENING	3	3	100	0	100
TRMT/EQUIP CL	17	17	100	0	100
TTD	5	5	100	0	100
TOTALS:	86	85	98.8	1	1.2

MOTION RESOLUTION COMPLIANCE

2014	December	2015
98.5%	97.2%	98.2%

Motion Compliance
December 2015



Motion Resolution Compliance – December 2015

Time Standard Categories	Total	TIMELY		UNTIMELY	
	Motions	Count	%	Count	%
APPLICATION THRESHOLD	2	2	100	0	0
BENEFIT OVERPAYMENT	12	12	100	0	0
BENEFIT RATE	2	2	100	0	0
COMPENSABILITY	156	153	98.1	3	1.9
DEP BEN 104	1	1	100	0	0
DEP BEN FATAL	17	16	94.1	1	5.9
FAILURE TO ACT 15 DAY	8	7	87.5	1	12.5
FAILURE TO ACT 30 DAY	3	2	66.7	1	33.3
OP NON-MED	4	2	50	2	50
OPBD	41	39	95.1	2	4.9
PPD	160	156	97.5	4	2.5
PTD ENTITLEMENT	1	1	100	0	0
REHABILITATION	3	3	100	0	0
REOPENING	32	32	100	0	0
SPECIAL CATEGORY	7	7	100	0	0
TEMP	1	1	100	0	0
TRMT/EQUIP CL	173	169	97.7	4	2.3
TTD	57	56	98.2	1	1.8
TOTALS:	680	661	97.2	19	2.8

PROTEST RESOLUTIONS

Protests Resolved:	December 2015	2015
Protests Decided	159	2388
Protest Withdrawals	65	706
“No Evidence” Dismissals	24	422

Resolution of Issues – December 1, 2015 through December 31, 2015

Time Standard	Decisions	REVERSED		AFFIRMED		AFFIRMED by RULE		DISMISSED		MODIFIED		MOOT		OTHER		REMANDED		
	Issued	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	Count	%	
BENEFIT OVERPAYMENT	4	2	50	0	0	0	0	2	50	0	0	0	0	0	0	0	0	0
BENEFIT RATE	3	2	66.7	0	0	0	0	1	33.3	0	0	0	0	0	0	0	0	0
COMPENSABILITY	48	19	39.6	15	31.3	3	6.3	8	16.7	3	6.3	0	0	0	0	0	0	0
DEP BEN FATAL	3	1	33.3	1	33.3	0	0	1	33.3	0	0	0	0	0	0	0	0	0
FAILURE TO ACT 15 DAY	4	0	0	0	0	0	0	4	100	0	0	0	0	0	0	0	0	0
FAILURE TO ACT 30 DAY	2	0	0	0	0	0	0	2	100	0	0	0	0	0	0	0	0	0
OP NON-MED	1	0	0	1	100	0	0	0	0	0	0	0	0	0	0	0	0	0
OPBD	23	4	17.4	5	21.7	0	0	14	60.9	0	0	0	0	0	0	0	0	0
PPD	88	13	14.8	21	23.9	14	15.9	39	44.3	0	0	0	0	0	0	0	1	1.1
PTD REVIEWING BODY IMPAIRMENT DETERMINATION	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
REHABILITATION	1	0	0	0	0	0	0	1	100	0	0	0	0	0	0	0	0	0
REOPENING	15	5	33.3	4	26.7	0	0	6	40	0	0	0	0	0	0	0	0	0
SPECIAL CATEGORY	7	4	57.1	3	42.9	0	0	0	0	0	0	0	0	0	0	0	0	0
TRMT/EQUIP CL	59	16	27.1	22	37.3	5	8.5	14	23.7	2	3.4	0	0	0	0	0	0	0
TTD	24	6	25	4	16.7	2	8.3	12	50	0	0	0	0	0	0	0	0	0
TOTALS:	283	73	25.8	76	26.9	24	8.5	104	36.7	5	1.8	0	0.0	0	0.0	1	0.4	

FINAL DECISION TIMELINESS

Final Decision Timeliness:	2014	December 2015	2015
< 30 Days	25.4%	52.1%	39.8%
30 – 60 Days	62.7%	41.7%	51.7%
60 – 90 Days	9.8%	4.3%	7.8%
>90 Days	2.1%	1.8%	0.8%

Final Decision Compliance – December 1, 2015 through December 31, 2015

Time Standard Categories	Issues Resolved	Days to Decision							
		< 30 Days		30 - 60		61 - 90		Over 90	
		Count	%	Count	%	Count	%	Count	%
BENEFIT OVERPAYMENT	2	2	100	0	0	0	0	0	0
BENEFIT RATE	2	0	0	0	0	2	100	0	0
COMPENSABILITY	37	16	0	20	0	1	0	0	0
DEP BEN FATAL	3	0	0	3	100	0	0	0	0
FAILURE TO ACT 15 DAY	2	0	0	0	0	2	100	0	0
OP NON-MED	1	0	0	1	100	0	0	0	0
OPBD	9	6	0	1	0	0	0	2	0
PPD	37	18	0	18	0	1	0	0	0
PTD REVIEWING BODY IMPAIRMENT DETERMINATION	1	0	0	1	100	0	0	0	0
REOPENING	8	4	0	3	0	0	0	1	0
SPECIAL CATEGORY	7	6	0	1	0	0	0	0	0
TRMT/EQUIP CL	41	25	0	16	0	0	0	0	0
TTD	13	8	0	4	0	1	0	0	0
TOTALS:	163	85	52.1	68	41.7	7	4.3	3	1.8

FAILURE TO TIMELY ACT PROCESS

Failure to Timely Act Process	
Petitions Filed 1/1/15 through 12/31/2015	
Filed:	117
Denied/Dismissed:	74
Reports to OIC:	44
Pending:	23
<i>(Resolutions/Pending include petitions filed from previous year)</i>	

EXPEDITED HEARING PROCESS

YEAR	MONTHLY TOTAL FOR DECEMBER	YEARLY TOTAL
2012	10	113
2013	11	173
2014	25	161
2015	12	149

PETITIONS FOR ATTORNEY FEES

Petitions for Attorney Fees & Costs WV Code §23-5-16(c)

Petitions Received 1/1/2015 through 12/31/2015	71
Granted	59
Denied	13
Pending	2
Other (<i>Forwarded to BOR</i>)	1
<i>(Grants include petitions filed prior to 1/1/15)</i>	

Petitions for Attorney Fees for Unreasonable Denial WV Code §23-2C-21(c)

Petitions Received 1/1/2015 through 12/31/2015	13
Granted	3
Denied on face	2
Denied by ALJ decision	1
Withdrawn (including settlements)	2
Pending	5

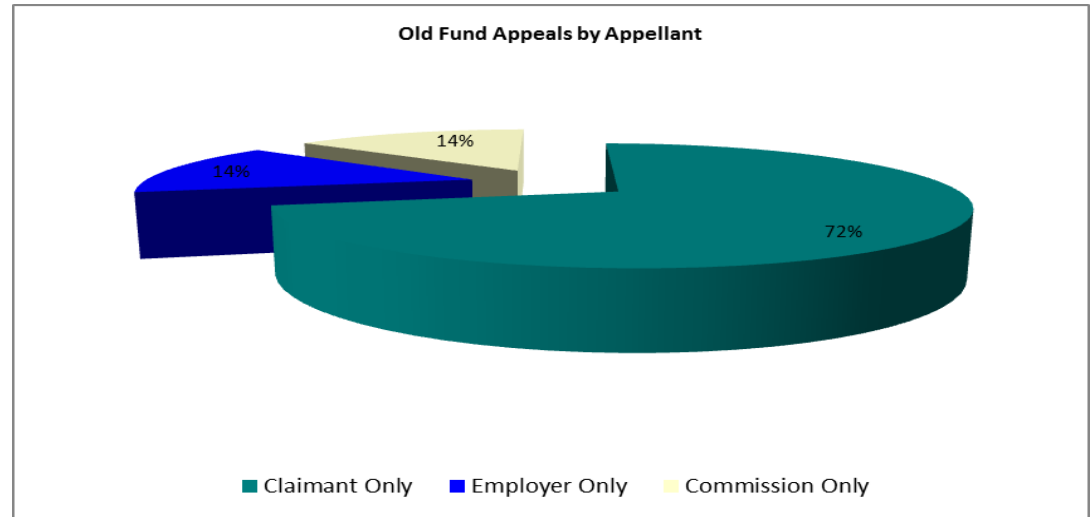
BOARD OF REVIEW

Appeals Received

From December 1, 2015 thru December 31, 2015

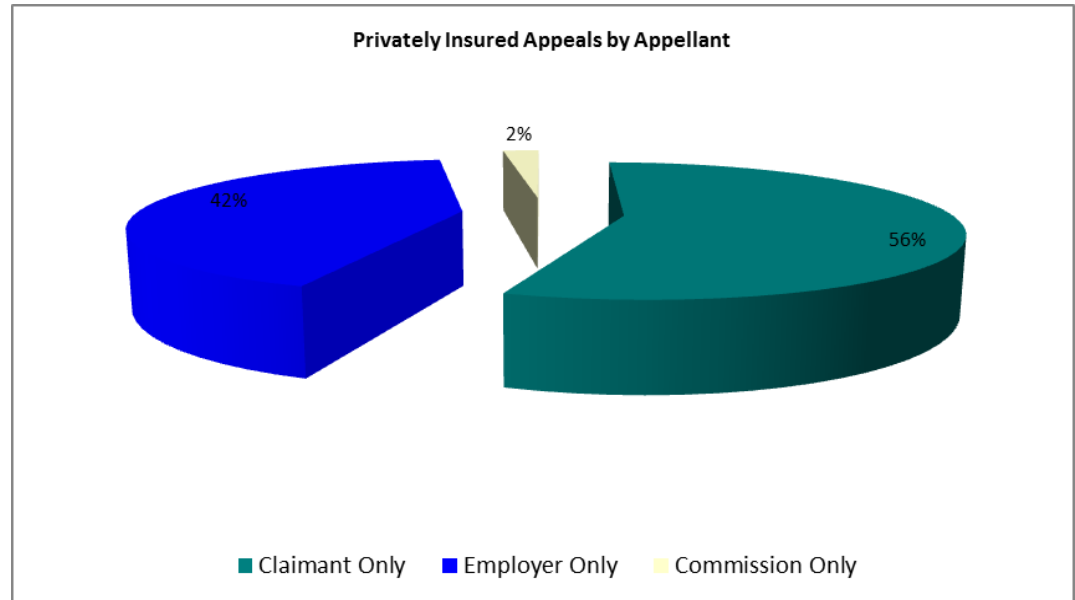
Old Fund Appeals (DOI < Jul-1-2005)

Appellant	Count
Claimant Only	10
Employer Only	2
Commission Only	2
Old Fund Total	14



Privately Insured Appeals (DOI > Jun-30-2005)

Appellant	Count
Claimant Only	25
Employer Only	19
Commission Only	1
Privately Insured Total	45
Total Appeals	59

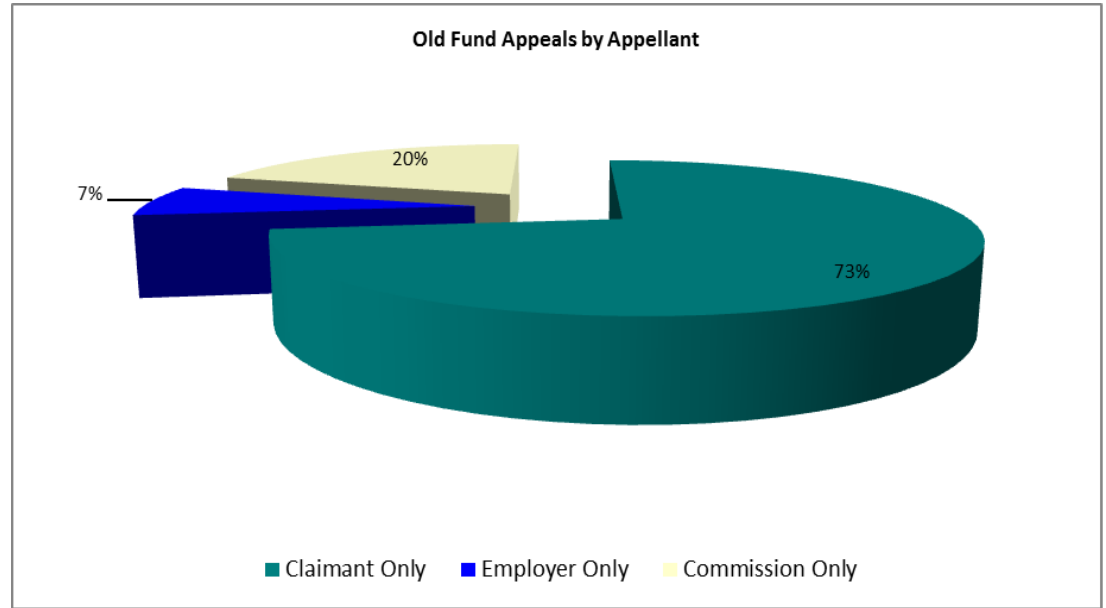


Appeals counted more than once:

Yearly Appeals Received
From January 1, 2015 thru December 31, 2015

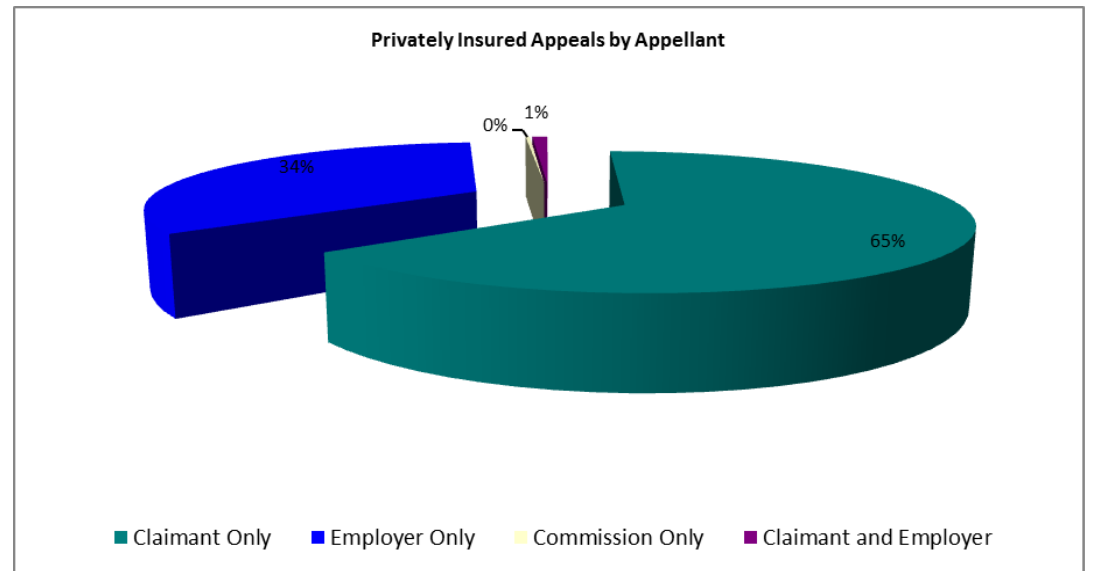
Old Fund Appeals (DOI < Jul-1-2005)

Appellant	Count
Claimant Only	86
Employer Only	8
Commission Only	24
Old Fund Total	118



Privately Insured Appeals (DOI > Jun-30-2005)

Appellant	Count
Claimant Only	472
Employer Only	249
Commission Only	2
Claimant and Employer	7
Privately Insured Total	730
Total Appeals	848



Appeals counted more than once:

Appeals Received By Issue
 Old Fund Appeals (DOI < Jul-1-2005) vs Privately Insured Appeals (DOI > Jun-30-2005)
 From December 1, 2015 thru December 31, 2015

Type of Issue	Total Issues	Old Fund		Privately Insured	
		#	%	#	%
CL % AWARD DENY/GRNT	10	0	0.0	10	100.0
CL % BOARD FINDING	1	1	100.0	0	0.0
CL ADDL % AWARD D/G	1	1	100.0	0	0.0
CL BEN. OVERPAYMENT	1	0	0.0	1	100.0
CL CLOSING THE CLAIM	3	0	0.0	3	100.0
CL DENY/GRNT R/O TTD	2	0	0.0	2	100.0
CL DNY/GRNT R/O PPD	3	3	100.0	0	0.0
CL NON-MED ORDER	1	1	100.0	0	0.0
CL OIC REJECT CLAIM	1	0	0.0	1	100.0
CL REJ OCC DISEASE	1	0	0.0	1	100.0
CL REJECT CLAIM	6	0	0.0	6	100.0
CL SEC.CONDITION	8	1	12.5	7	87.5
CL SI %AWARD DNY/GNT	2	0	0.0	2	100.0
CL SI APP.THRESHOLD	1	1	100.0	0	0.0
CL SI COMP ON LIMITED BASIS	1	0	0.0	1	100.0
CL SI DY/GNT DTH BEN	1	1	100.0	0	0.0
CL SI DY/GNT R/O PTD	1	1	100.0	0	0.0
CL SI EQUIP DNY/GRNT	1	0	0.0	1	100.0
CL SI REJECT CLAIM	2	0	0.0	2	100.0
CL SI SEC.CONDITION	1	0	0.0	1	100.0
CL SI TRMT DENY	2	0	0.0	2	100.0
CL TRMT DENY	19	6	31.6	13	68.4
Totals	69	16	23.2	53	76.8

Appeals Received By Issue
 Old Fund Appeals (DOI < Jul-1-2005) vs Privately Insured Appeals (DOI > Jun-30-2005)
 From January 1, 2015 thru December 31, 2015

Type of Issue	Total Issues	Old Fund		Privately Insured	
		#	%	#	%
CL % AWARD DENY/GRNT	116	1	0.9	115	99.1
CL % BOARD FINDING	6	3	50.0	3	50.0
CL ADD BOARD FINDING	5	2	40.0	3	60.0
CL ADDL % AWARD D/G	8	1	12.5	7	87.5
CL APP.THRESHOLD	1	0	0.0	1	100.0
CL BEN. OVERPAYMENT	6	0	0.0	6	100.0
CL CLOSING THE CLAIM	58	0	0.0	58	100.0
CL COMP ON LIMITED BASIS	11	1	9.1	10	90.9
CL COMPENSABILITY	3	0	0.0	3	100.0
CL D/G PROV CHNG	1	0	0.0	1	100.0
CL DENY/GRANT PTD	2	2	100.0	0	0.0
CL DENY/GRNT DTH BEN	7	6	85.7	1	14.3
CL DENY/GRNT R/O TTD	31	2	6.5	29	93.5
CL DNY/GRNT R/O PPD	12	6	50.0	6	50.0
CL DNY/GRNT R/O PTD	1	1	100.0	0	0.0
CL EQUIP DENY/GRANT	3	3	100.0	0	0.0
CL GRNT/DNY VOC REHA	7	1	14.3	6	85.7
CL INITIAL TTD	2	0	0.0	2	100.0
CL NON-MED ORDER	8	5	62.5	3	37.5
CL OIC D/G DTH BEN	1	0	0.0	1	100.0
CL OIC REJECT CLAIM	3	0	0.0	3	100.0
CL PRSTS BEN RATE	1	0	0.0	1	100.0
CL PTD REV. BODY DETERMINATION	2	1	50.0	1	50.0
CL REJ OCC DISEASE	20	0	0.0	20	100.0
CL REJECT CLAIM	113	0	0.0	113	100.0
CL SEC.CONDITION	95	7	7.4	88	92.6
CL SI %AWARD DNY/GNT	29	1	3.4	28	96.6
CL SI AD.BRD FINDING	1	0	0.0	1	100.0
CL SI ADD% AWARD D/G	7	0	0.0	7	100.0
CL SI APP.THRESHOLD	1	1	100.0	0	0.0
CL SI AUT/RPR HA D/G	2	2	100.0	0	0.0
CL SI BEN. OVR PAYMT	1	0	0.0	1	100.0
CL SI CLSING THE CLM	15	0	0.0	15	100.0
CL SI COMP ON LIMITED BASIS	5	0	0.0	5	100.0

CL SI COMPENSABLE	1	0	0.0	1	100.0
CL SI D/G 104 WKS	1	1	100.0	0	0.0
CL SI D/G PROV CHNG	1	0	0.0	1	100.0
CL SI DENY/GRANT PTD	2	1	50.0	1	50.0
CL SI DY/GNT DTH BEN	3	3	100.0	0	0.0
CL SI DY/GNT R/O PPD	5	2	40.0	3	60.0
CL SI DY/GNT R/O PTD	2	2	100.0	0	0.0
CL SI DY/GNT R/O TTD	6	0	0.0	6	100.0
CL SI DY/GRNT RHB PL	1	0	0.0	1	100.0
CL SI EQUIP DNY/GRNT	1	0	0.0	1	100.0
CL SI INITIAL TTD	1	0	0.0	1	100.0
CL SI NON-MED ORDER	2	0	0.0	2	100.0
CL SI PTDRB IMPAIRMENT	2	1	50.0	1	50.0
CL SI REJ OCCDISEASE	2	0	0.0	2	100.0
CL SI REJECT CLAIM	19	0	0.0	19	100.0
CL SI SEC.CONDITION	22	1	4.5	21	95.5
CL SI SL CATEGORY	2	0	0.0	2	100.0
CL SI TRMT DENY	53	11	20.8	42	79.2
CL SI TRMT GRANT	1	0	0.0	1	100.0
CL SI TTD	5	0	0.0	5	100.0
CL SPL CATEGORY	18	5	27.8	13	72.2
CL TRMT DENY	226	47	20.8	179	79.2
CL TRMT GRANT	3	2	66.7	1	33.3
CL TTD	20	0	0.0	20	100.0
CL% SI BOARD FINDING	3	0	0.0	3	100.0
EM OIC SPL CATEGORY	1	0	0.0	1	100.0
EM SI AD.BRD FINDING	1	0	0.0	1	100.0
EM SI DY/GNT DTH BEN	1	1	100.0	0	0.0
NonPrstable Protest	1	1	100.0	0	0.0
Not All Parties cc'd	3	0	0.0	3	100.0
PRT NOT CC-NoEMP ORD	1	0	0.0	1	100.0
Totals	994	124	12.5	870	87.5

Appeals Received By Issue
From December 1, 2015 thru December 31, 2015

Type of Issue	Total Issues	Claimant		Employer		OIC		Emp and OIC	
		#	%	#	%	#	%	#	%
CL % AWARD DENY/GRNT	10	5	50.0	5	50.0	0	0.0	0	0.0
CL % BOARD FINDING	1	1	100.0	0	0.0	0	0.0	0	0.0
CL ADDL % AWARD D/G	1	1	100.0	0	0.0	0	0.0	0	0.0
CL BEN. OVERPAYMENT	1	0	0.0	1	100.0	0	0.0	0	0.0
CL CLOSING THE CLAIM	3	1	33.3	2	66.7	0	0.0	0	0.0
CL DENY/GRNT R/O TTD	2	0	0.0	2	100.0	0	0.0	0	0.0
CL DNY/GRNT R/O PPD	3	2	66.7	0	0.0	0	0.0	1	33.3
CL NON-MED ORDER	1	1	100.0	0	0.0	0	0.0	0	0.0
CL OIC REJECT CLAIM	1	0	0.0	0	0.0	0	0.0	1	100.0
CL REJ OCC DISEASE	1	0	0.0	1	100.0	0	0.0	0	0.0
CL REJECT CLAIM	6	3	50.0	3	50.0	0	0.0	0	0.0
CL SEC.CONDITION	8	8	100.0	0	0.0	0	0.0	0	0.0
CL SI %AWARD DNY/GNT	2	2	100.0	0	0.0	0	0.0	0	0.0
CL SI APP.THRESHOLD	1	1	100.0	0	0.0	0	0.0	0	0.0
CL SI COMP ON LIMITED BASIS	1	0	0.0	1	100.0	0	0.0	0	0.0
CL SI DY/GNT DTH BEN	1	0	0.0	1	100.0	0	0.0	0	0.0
CL SI DY/GNT R/O PTD	1	0	0.0	1	100.0	0	0.0	0	0.0
CL SI EQUIP DNY/GRNT	1	1	100.0	0	0.0	0	0.0	0	0.0
CL SI REJECT CLAIM	2	0	0.0	2	100.0	0	0.0	0	0.0
CL SI SEC.CONDITION	1	1	100.0	0	0.0	0	0.0	0	0.0
CL SI TRMT DENY	2	2	100.0	0	0.0	0	0.0	0	0.0
CL TRMT DENY	19	13	68.4	5	26.3	0	0.0	1	5.3
Totals	69	42	60.9	24	34.8	0	0.0	3	4.3

**WORKER COMPENSATION BOARD OF REVIEW
FOR DECEMBER 2015**

Appealed By	BOR Disposition	Disposition Count	Disp %	Total %	Year to Date	Disp %	Total %
CLAIMANT	AFFIRMED	34	85.0%	58.6%	425	81.1%	52.1%
	DISMISSED	2	5.0%	3.4%	43	8.2%	5.3%
	MODIFY				4	0.8%	0.5%
	REMAND	2	5.0%	3.4%	20	3.8%	2.5%
	REVERSE	2	5.0%	3.4%	32	6.1%	3.9%
	Total Dispositions	40			524		
	CLAIMANT/EMPLOYER	AFFIRMED				8	72.7%
DISMISSED					1	9.1%	0.1%
REMAND					1	9.1%	0.1%
REVERSE					1	9.1%	0.1%
Total Dispositions					11		
EMPLOYER		AFFIRMED	13	72.2%	22.4%	184	70.5%
	DISMISSED	1	5.6%	1.7%	21	8.0%	2.6%
	MODIFY	1	5.6%	1.7%	8	3.1%	1.0%
	MODIFY AND REMAND				2	0.8%	0.2%
	REMAND	1	5.6%	1.7%	10	3.8%	1.2%
	REVERSE	2	11.1%	3.4%	36	13.8%	4.4%
	Total Dispositions	18			261		
	DIVISION/OIC	AFFIRMED				13	65.0%
REVERSE					7	35.0%	0.9%
Total Dispositions					20		
Grand Totals		58			816		

Dispositions by Issues
BOR Orders Mailed From December 1, 2015 thru December 31, 2015

Type of Issue	Issues	Affirmed		Reversed		Dismissed		Modified		Remanded		Vacated		Other	
		#	%	#	%	#	%	#	%	#	%	#	%	#	%
CL % AWARD DENY/GRNT	8	6	75.0	2	25.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL ADDL % AWARD D/G	1	0	0.0	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL CLOSING THE CLAIM	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL COMPENSABILITY	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL DENY/GRNT R/O TTD	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL OIC REJECT CLAIM	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL REJ OCC DISEASE	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL REJECT CLAIM	11	9	81.8	1	9.1	1	9.1	0	0.0	0	0.0	0	0.0	0	0.0
CL SEC.CONDITION	8	8	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI %AWARD DNY/GNT	4	3	75.0	0	0.0	1	25.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI ADD% AWARD D/G	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI CLSING THE CLM	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI DY/GNT R/O TTD	2	1	50.0	0	0.0	0	0.0	1	50.0	0	0.0	0	0.0	0	0.0
CL SI REJECT CLAIM	1	0	0.0	0	0.0	0	0.0	0	0.0	1	100.0	0	0.0	0	0.0
CL SI SEC.CONDITION	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI TRMT DENY	4	3	75.0	0	0.0	0	0.0	1	25.0	0	0.0	0	0.0	0	0.0
CL SI TTD	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SPL CATEGORY	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL TRMT DENY	19	15	78.9	1	5.3	1	5.3	0	0.0	2	10.5	0	0.0	0	0.0
Totals	71	58	81.7	5	7.0	3	4.2	2	2.8	3	4.2	0	0.0	0	0.0

Dispositions by Issues
BOR Orders Mailed From January 1, 2015 thru December 31, 2015

Type of Issue	Issues	Affirmed		Reversed		Dismissed		Modified		Remanded		Vacated		Other	
		#	%	#	%	#	%	#	%	#	%	#	%	#	%
CL % AWARD DENY/GRNT	109	81	74.3	12	11.0	8	7.3	0	0.0	6	5.5	0	0.0	2	1.8
CL % BOARD FINDING	7	5	71.4	0	0.0	1	14.3	0	0.0	1	14.3	0	0.0	0	0.0
CL ADD BOARD FINDING	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL ADDL % AWARD D/G	10	7	70.0	3	30.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL APP.THRESHOLD	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL BEN. OVERPAYMENT	4	1	25.0	0	0.0	3	75.0	0	0.0	0	0.0	0	0.0	0	0.0
CL CLOSING THE CLAIM	61	50	82.0	5	8.2	5	8.2	0	0.0	1	1.6	0	0.0	0	0.0
CL COMP ON LIMITED BASIS	12	11	91.7	1	8.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL COMPENSABILITY	7	5	71.4	2	28.6	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL D/G PROV CHNG	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL DENY/GRANT PTD	3	2	66.7	1	33.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL DENY/GRNT 104 WKS	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL DENY/GRNT DTH BEN	9	8	88.9	1	11.1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL DENY/GRNT R/O TTD	26	22	84.6	3	11.5	0	0.0	0	0.0	1	3.8	0	0.0	0	0.0
CL DNY/GRNT R/O PPD	4	4	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL DNY/GRNT R/O PTD	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL EQUIP DENY/GRANT	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL GRNT/DNY TP REHAB	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL GRNT/DNY VOC REHA	6	4	66.7	0	0.0	2	33.3	0	0.0	0	0.0	0	0.0	0	0.0
CL INITIAL TTD	4	3	75.0	0	0.0	0	0.0	0	0.0	1	25.0	0	0.0	0	0.0
CL NON-MED ORDER	8	3	37.5	0	0.0	3	37.5	2	25.0	0	0.0	0	0.0	0	0.0
CL OIC D/G DTH BEN	1	0	0.0	0	0.0	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0
CL OIC REJECT CLAIM	2	1	50.0	1	50.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL PTD REV. BODY DETERMINATION	4	4	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL REJ OCC DISEASE	16	15	93.8	1	6.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL REJECT CLAIM	138	98	71.0	21	15.2	14	10.1	4	2.9	1	0.7	0	0.0	0	0.0
CL SEC.CONDITION	88	73	83.0	4	4.5	8	9.1	1	1.1	1	1.1	0	0.0	1	1.1
CL SI %AWARD DNY/GNT	25	15	60.0	5	20.0	4	16.0	0	0.0	1	4.0	0	0.0	0	0.0
CL SI AD.BRD FINDING	1	0	0.0	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI ADD% AWARD D/G	9	8	88.9	1	11.1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI AUT/RPR HA D/G	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI BEN. OVR PAYMT	2	1	50.0	0	0.0	0	0.0	0	0.0	1	50.0	0	0.0	0	0.0
CL SI CLSING THE CLM	12	12	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI COMP ON LIMITED BASIS	4	4	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI DENY/GRANT PTD	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

CL SI DY/GNT DTH BEN	5	4	80.0	0	0.0	0	0.0	0	0.0	1	20.0	0	0.0	0	0.0
CL SI DY/GNT R/O PPD	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI DY/GNT R/O PTD	1	0	0.0	0	0.0	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI DY/GNT R/O TTD	6	5	83.3	0	0.0	0	0.0	1	16.7	0	0.0	0	0.0	0	0.0
CL SI INITIAL TTD	1	1	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI NON-MED ORDER	2	1	50.0	1	50.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI PTDRB IMPAIRMENT	2	1	50.0	1	50.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI REJ OCCDISEASE	2	2	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
CL SI REJECT CLAIM	22	17	77.3	0	0.0	0	0.0	3	13.6	2	9.1	0	0.0	0	0.0
CL SI SEC.CONDITION	20	19	95	1	5	0	0	0	0	0	0	0	0	0	0
CL SI SL CATEGORY	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0
CL SI TRMT DENY	38	29	76.316	3	7.8947	3	7.8947	1	2.6316	2	5.2632	0	0	0	0
CL SI TRMT GRANT	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0
CL SI TTD	4	3	75	0	0	1	25	0	0	0	0	0	0	0	0
CL SPL CATEGORY	17	13	76.471	0	0	1	5.8824	1	5.8824	2	11.765	0	0	0	0
CL TRMT DENY	196	156	79.592	16	8.1633	17	8.6735	0	0	6	3.0612	0	0	1	0.5102
CL TRMT GRANT	3	1	33.333	1	33.333	0	0	1	33.333	0	0	0	0	0	0
CL TTD	15	11	73.333	1	6.6667	1	6.6667	1	6.6667	1	6.6667	0	0	0	0
CL% SI BOARD FINDING	3	2	66.667	0	0	0	0	0	0	1	33.333	0	0	0	0
EM % BOARD FINDING	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0
EM NON-MED ORDER	1	0	0	0	0	0	0	1	100	0	0	0	0	0	0
EM SI AD.BRD FINDING	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0
EM SI DY/GNT DTH BEN	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0
NonPrstable Protest	1	0	0	1	100	0	0	0	0	0	0	0	0	0	0
Not All Parties cc'd	3	1	33.333	0	0	1	33.333	0	0	1	33.333	0	0	0	0
PRT NOT CC-NoEMP ORD	1	1	100	0	0	0	0	0	0	0	0	0	0	0	0
Totals	935	724	77.433	87	9.3048	74	7.9144	16	1.7112	30	3.2086	0	0	4	0.4278

REVENUE RECOVERY

Workers' Compensation – December 2015

COLLECTION ACTIVITY	Current Month	Fiscal Year 2016
Receipts - Old Fund (Employer out of business)	\$ 1,909.75	\$ 13,323.55
Receipts - PC & NU (Private Carrier Cancellation & Rogue Employers)	\$ 56,013.87	\$ 298,375.97
Receipts - Payment Agreements (Old Fund and UEF Combined)	\$ 8,208.47	\$ 54,394.09
# of active accounts uninsured (cumulative) / (average)	359	321
\$ of active accounts uninsured (cumulative) / (average)	\$ 1,497,677.00	1,363,871.85
Telephone contacts	906	6,968
Walk-ins	1	27

LIENS	Current Month	Fiscal Year 2016
Liens sent to county clerks for recordation	101	611
Liens sent to county clerks for release	34	224
Intent to lien letters sent to employer/owner/officer/member	67	364

Uninsured Accounts Resolved	137	958
All Cash Receipts from WC accounts	\$ 66,132.09	\$ 366,093.61

INJUNCTIONS	Current Month	Fiscal Year 2016
Affidavits for injunction submitted to legal	5	15
Hearings attended	2	3
# of injunction complaints accepted by court	0	8
# of injunctions granted	0	2
# of agreed orders entered	0	0
PAYMENT AGREEMENTS	Current Month	Fiscal Year 2016
# of repayment agreements applications	2	26
Agreements set up	2	25
Total # of agreements on system (cumulative) / (average)	52	55
Intent to void letters mailed	6	33
Agreements voided	2	10

MISCELLANEOUS	Current Month	Fiscal Year 2016
Terminations Processed	43	251
Rule 11 Letters Mailed	147	959
Rule 11 hearings	0	2

BOARD OF TREASURY INVESTMENTS

CALENDAR NOTE

Board Meeting
January 28, 2016

OPERATING REPORT NOVEMBER 2015

Board of Treasury Investments

1900 Kanawha
Boulevard East
Suite E-122
Charleston WV
25305
(304) 340-1564
www.wvbt.com

Board of Directors

John D. Perdue,
State Treasurer,
Chairman

Earl Ray Tomblin,
Governor

Glen B. Gainer III,
State Auditor

Richard "Chap"
Donovan, CPA
Appointed by the
Governor

Executive Staff

Executive
Director

Kara K. Hughes,
CPA, MBA, CFE

Chief Financial
Officer

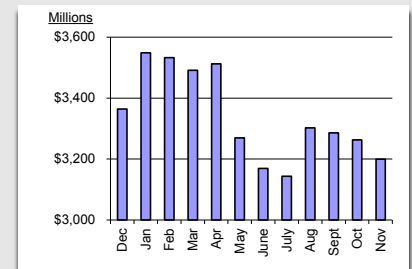
Karl Shanholtzer,
CFA, CPA, CIA

Total Net Assets Under Management

\$3,199,609,000

Last Month
\$3,262,850,000

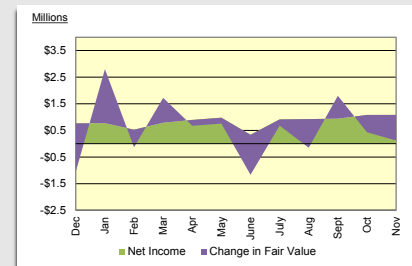
Beginning of Fiscal Year
\$3,169,521,000



Net Assets for the Past
12 Months

Total Net Income & Changes in Fair Value

Fiscal Year
\$2,879,000



Monthly Net Income &
Changes in Fair Value for
the Past 12 Months

Money Market Pools

As of November 30, 2015

<u>Pool</u>	<u>30-Day Avg. Yield *</u>	<u>W.A.M. **</u>	<u>Net Assets</u>
WV Money Market	0.2102%	52 Days	\$1.9 Billion
WV Gov't Money Market	0.0559%	53 Days	\$230.5 Million

* Yields represent the simple money market yield net of fees.

** W.A.M. is the weighted average maturity.

WEST VIRGINIA BOARD OF TREASURY INVESTMENTS

THE ECONOMIC STATE

NOVEMBER 2015

Favoring International Markets

Market Environment

Global equities were subdued in November amid tempered investor sentiment on the heels of October's bounce back from third quarter losses. The S&P 500 rose 0.3% as positive economic data not only provided a supportive backdrop, but also increased the likelihood the Federal Reserve will raise rates at its December meeting. As of the end of November, the market priced in a 74% probability of a 25 basis points increase to the target Fed Funds rate. Despite continued easing measures in Europe and Japan, the MSCI EAFE declined 1.6% last month as the rising dollar pressured returns and investors awaited news of further policy action from the European Central Bank. In emerging economies, market outflows and continuing weakness in commodities spurred losses, with the MSCI EM Index falling 3.9%. The Bloomberg Commodity Index declined 7.3% and is now down 22.3% for the year.

US fixed income indices experienced losses as short- and intermediate-term rates increased, with the Barclays US Aggregate Bond Index losing 0.3%. Stress from the energy sector continued to weigh on the Barclays US Corporate High Yield Index as it fell 2.2% and its yield rose to 8.02%. Emerging market bond issues fared similarly amid sustained pressure on emerging currencies, with the JP Morgan GBI-EM Global Diversified Index falling 2.2%.

Equity Market Results

As noted above, US equity market results were positive during November. Small cap stocks posted the best results, with the Russell 2000 Index rising 3.25%. Large cap stocks also enjoyed a positive return during the month, with the Russell 1000 Index posting a 0.33% return. Year-to-date, returns from the broad US equity market remain in positive territory, with the Russell 3000 Index generating a 2.58% return for the first eleven months of the calendar year.

International equity markets sold off during November. Developed international markets, represented by the MSCI EAFE Index, declined 1.56%, while their less established counterparts, represented by the MSCI Emerging Markets Index, fell 3.90%. Year-to-date, developed and emerging market stock returns have diverged significantly. Developed international market stocks have risen 0.54%, while emerging markets continue to struggle, falling 12.98%.

Bond Market Results

Bonds also sold off during November, leaving most investors in the red. Core US bonds and other non-risky segments of the markets were flat to negative, while the riskier segments such as high yield saw declines in excess of 2%. The broad US bond market, represented by the Barclays Capital Aggregate Index, fell 0.26% during the month. International bonds, as represented by the Citigroup World Government Bond Index (WGBI) hedged, posted a positive return, rising 0.05%. High yield and emerging market bonds were negative, falling 2.25% and 0.36%, respectively. Cash-like instruments continued to post small returns, with the BofA ML 3-month T-bill and LIBOR returning 0.00% and 0.03%, respectively.

Market Outlook

While we believe developed equities are mostly near fair value, we favor an overweight to international markets, especially in Europe, where central bank stimulus and a weaker euro provide a backdrop for earnings growth. We recognize the potential for continued volatility in emerging markets, especially given the likelihood of a Fed rate hike. That said, we believe valuations are broadly attractive and, over the long term, increased consumer demand will lead to an attractive return premium over developed market equities.

West Virginia Board of Treasury Investments

Financial Highlights as of November 30, 2015

WV Short Term Bond Pool

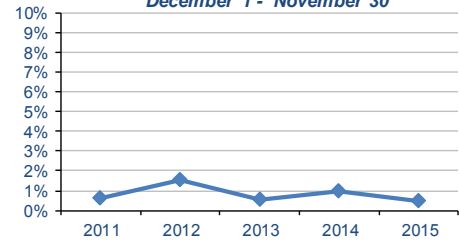
Rates of Return for the Past 12 Months Net of All Fees

<u>December 1 - November 30</u>	<u>Return</u>	<u>Net Assets At Nov 30 (In Millions)</u>
2015	0.5%	\$ 803.8
2014	1.0%	\$ 784.1
2013	0.5%	\$ 718.5
2012	1.5%	\$ 501.9
2011	0.6%	\$ 505.5

Prior to July 2007, the WV Short Term Bond Pool was known as the Enhanced Yield Pool

WV Short Term Bond Pool Rates of Return

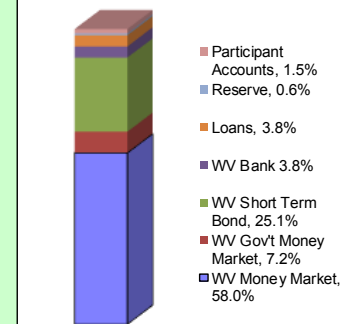
Past 12 Months
December 1 - November 30



Summary of Value and Earnings (In Thousands)

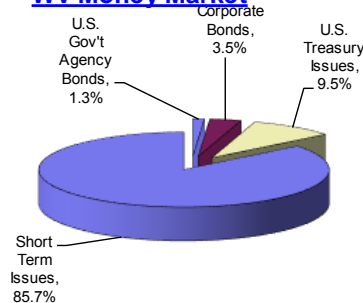
<u>Pool</u>	<u>Net Asset Value</u>	<u>Nov Net Income (Loss)</u>	<u>Fiscal YTD Net Income(Loss)</u>
WV Money Market	\$ 1,857,181	\$ 321	\$ 1,301
WV Gov't Money Market	230,525	12	53
WV Short Term Bond	803,801	(252)	1,345
WV Bank	120,120	17	74
Loans	121,435	15	31
Reserve	18,736	4	20
Participant Accounts	47,811	4	55
	<u>\$3,199,609</u>	<u>\$ 121</u>	<u>\$ 2,879</u>

Percent of Total Net Asset Value

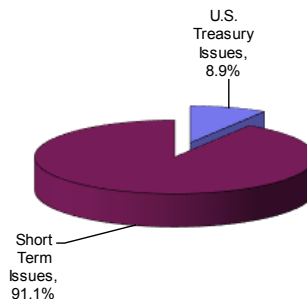


Securities by Type for Operating Pools (Percentage of Asset Value)

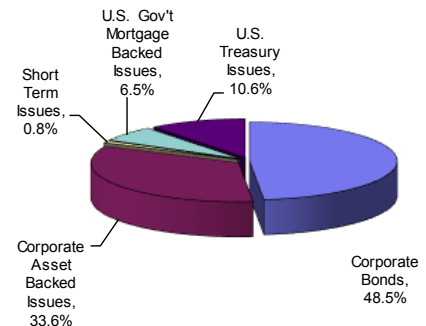
WV Money Market



WV Gov't Money Market



WV Short Term Bond



WEST VIRGINIA BOARD OF TREASURY INVESTMENTS
SCHEDULE OF CHANGES IN FIDUCIARY NET POSITION – UNAUDITED
NOVEMBER 30, 2015

(IN THOUSANDS)

	WV Money Market Pool	WV Government Money Market Pool	WV Short Term Bond Pool	WV Bank Pool	Other Pools	Participant Directed Accounts	Total
Assets							
Investments:							
At amortized cost	\$ 1,857,931	\$ 230,519	\$ -	\$ 120,061	\$ 140,152	\$ 44,529	\$ 2,393,192
At fair value	-	-	804,567	-	-	3,232	807,799
Other assets	926	32	2,019	63	24	50	3,114
Total assets	<u>1,858,857</u>	<u>230,551</u>	<u>806,586</u>	<u>120,124</u>	<u>140,176</u>	<u>47,811</u>	<u>3,204,105</u>
Liabilities							
Accrued expenses, dividends payable & payables for investments purchased	<u>1,676</u>	<u>26</u>	<u>2,785</u>	<u>4</u>	<u>5</u>	<u>-</u>	<u>4,496</u>
Total liabilities	<u>1,676</u>	<u>26</u>	<u>2,785</u>	<u>4</u>	<u>5</u>	<u>-</u>	<u>4,496</u>
Net Position							
Held in trust for investment pool participants	1,857,181	230,525	803,801	120,120	140,171	-	3,151,798
Held in trust for individual investment account holders	-	-	-	-	-	47,811	47,811
Total net position	<u>\$ 1,857,181</u>	<u>\$ 230,525</u>	<u>\$ 803,801</u>	<u>\$ 120,120</u>	<u>\$ 140,171</u>	<u>\$ 47,811</u>	<u>\$ 3,199,609</u>
Additions							
Investment income:							
Interest and dividends	\$ 378	\$ 12	\$ 901	\$ 21	\$ 24	\$ 53	\$ 1,389
Net (amortization) accretion	42	17	(113)	-	-	(35)	(89)
Provision for uncollectible loans	-	-	-	-	-	-	-
Total investment income	<u>420</u>	<u>29</u>	<u>788</u>	<u>21</u>	<u>24</u>	<u>18</u>	<u>1,300</u>
Investment expenses:							
Investment advisor, custodian bank & administrative fees	<u>101</u>	<u>17</u>	<u>90</u>	<u>4</u>	<u>5</u>	<u>-</u>	<u>217</u>
Total investment expenses	<u>101</u>	<u>17</u>	<u>90</u>	<u>4</u>	<u>5</u>	<u>-</u>	<u>217</u>
Net investment income	319	12	698	17	19	18	1,083
Net realized gain (loss) from investments	2	-	-	-	-	-	2
Net increase (decrease) in fair value of investments	<u>-</u>	<u>-</u>	<u>(950)</u>	<u>-</u>	<u>-</u>	<u>(14)</u>	<u>(964)</u>
Net increase (decrease) in net position from operations	321	12	(252)	17	19	4	121
Participant transaction additions:							
Purchase of pool units by participants	705,787	18,675	605	16	4	-	725,087
Reinvestment of pool distributions	321	11	702	17	19	-	1,070
Contributions to individual investment accounts	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>58</u>	<u>58</u>
Total participant transaction additions	<u>706,108</u>	<u>18,686</u>	<u>1,307</u>	<u>33</u>	<u>23</u>	<u>58</u>	<u>726,215</u>
Total additions	706,429	18,698	1,055	50	42	62	726,336
Deductions							
Distributions to pool participants:							
Net investment income	319	12	698	17	19	-	1,065
Net realized gain (loss) from investments	<u>2</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>2</u>
Total distributions to pool participants	<u>321</u>	<u>12</u>	<u>698</u>	<u>17</u>	<u>19</u>	<u>-</u>	<u>1,067</u>
Participant transaction deductions:							
Redemption of pool units by participants	741,674	44,244	-	16	1,020	-	786,954
Withdrawals from individual investment accounts	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,557</u>	<u>1,557</u>
Total participant transaction deductions	<u>741,674</u>	<u>44,244</u>	<u>-</u>	<u>16</u>	<u>1,020</u>	<u>1,557</u>	<u>788,511</u>
Total deductions	<u>741,995</u>	<u>44,256</u>	<u>698</u>	<u>33</u>	<u>1,039</u>	<u>1,557</u>	<u>789,578</u>
Net increase (decrease) in net position from operations	(35,566)	(25,558)	357	17	(997)	(1,495)	(63,242)
Inter-pool transfers in	-	-	-	4,950	-	-	4,950
Inter-pool transfers out	<u>(4,950)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(4,950)</u>
Net inter-pool transfers in (out)	<u>(4,950)</u>	<u>-</u>	<u>-</u>	<u>4,950</u>	<u>-</u>	<u>-</u>	<u>-</u>
Change in net position	(40,516)	(25,558)	357	4,967	(997)	(1,495)	(63,242)
Net position at beginning of period	<u>1,897,697</u>	<u>256,083</u>	<u>803,444</u>	<u>115,153</u>	<u>141,168</u>	<u>49,306</u>	<u>3,262,851</u>
Net position at end of period	<u>\$ 1,857,181</u>	<u>\$ 230,525</u>	<u>\$ 803,801</u>	<u>\$ 120,120</u>	<u>\$ 140,171</u>	<u>\$ 47,811</u>	<u>\$ 3,199,609</u>

OFFICE OF THE STATE FIRE MARSHAL

*Comprehensive Report to the
West Virginia Legislature
Joint Committee
Government and Finance
Review and Recommendations on
Volunteer and Part-Volunteer
Fire Service*





Department of Military Affairs and Public Safety

Earl Ray Tomblin, Governor

Phone: (304) 558-2191

Joseph Thornton, Cabinet Secretary

Fax: (304) 558-2537

Kenneth E. Tyree, Jr., State Fire Marshal

STATE FIRE MARSHAL'S OFFICE

1207 Quarrier St, 2nd Floor

Charleston, WV 25301

The Honorable William Cole
President of the Senate
Co-Chair Joint Committee
Government and Finance
West Virginia Capitol Complex
Bldg. 1, Rm. 451-M
1900 Kanawha Blvd. E.
Charleston, WV 25305

The Honorable Tim Armstead
Speaker of the House
Co-Chair Joint Committee on
Government and Finance
West Virginia Capitol Complex
Bldg. 1, Rm. 451-M
1900 Kanawha Blvd. E.
Charleston, WV 25305

Dear President Cole, Speaker Armstead and Committee Members:

The following report is submitted in accordance with the mandates of W. Va. Code § 33-3-33a(d). This report summarizes the review and recommendations of the Office of the State Fire Marshal in regard to the volunteer and part-volunteer fire service. The findings and conclusions of this report are the sum total of two (2) years of work by this office, in conjunction with the Insurance Commissioner, State Auditor, Secretary of Revenue, and Legislative Auditor.

I am honored to submit this report as the State Fire Marshal. I look forward to continuing a positive and effective relationship between this agency and the West Virginia Legislature. It is my expectation and goal to continue to improve and advance the volunteer and part-volunteer fire service in the State of West Virginia.

Respectfully submitted,

Kenneth E. Tyree, Jr.

State Fire Marshal

Enclosure

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EXECUTIVE SUMMARY

This report combines and summarizes the activities, input and accomplishments of the House Bill 103 Working Group (“Working Group”) which consisted of the State Fire Marshal, staff of the State Fire Marshal’s Office, the legal counsel for the State Fire Commission appointed by the Attorney General, the Chairman of the Legislative Rules and Codes Committee of the State Fire Commission, the insurance representative for the State Fire Commission, the Assistant Insurance Commissioner, the Auditor’s delegate, the Deputy Secretary of Revenue, the Fire Department Auditor for the Legislative Auditor, representatives of the State Firemen’s Association, representatives of the State Fire Chief’s Association, a representative from the National Volunteer Fire Council, and other interested persons. The most significant activities of this Working Group are summarized in subsequent sections of this report.

As a matter of background, this legislation was passed during the tenure of State Fire Marshal Sterling Lewis. The beginning steps were undertaken by then Acting, and later officially appointed State Fire Marshal Anthony Carrico. After the resignation of Marshal Carrico, Kenneth Tyree took the helm of the Office in January of 2015. Since that time, Marshal Tyree has labored to bring the vision of the past Marshals to fruition in providing the Legislature with the most thorough and complete analysis of the fire departments in the State.

During the past two (2) years, the Working Group has met on numerous occasions to work through the challenges and concerns posed by the legislation in providing a first-of-its-kind comprehensive examination of the volunteer and part-volunteer fire service in West Virginia. The State Fire Marshal’s Office prepared a survey which went to all four hundred nineteen (419) volunteer and part-volunteer fire departments in this State. The survey sought detailed information from each participant to provide necessary information for use in this report. Two hundred eighty-two (282) departments submitted responses to the requests for information. It is from this information that the review and recommendations herein are made.

In summary, the consensus of the Working Group is that continuing under the current model is unsustainable for a myriad of reasons. *It cannot be overstated that catastrophe looms unless drastic measures are swiftly undertaken.* The marked challenges facing volunteer fire departments are including, but not limited to: unmanageable worker’s compensation liabilities and costs; decreased volunteerism; inadequate funding mechanisms; antiquated statutory structures; and lack of internal and external controls. As will be discussed in greater detail herein, several key recommendations will be made. Key proposals of this report are:

- Increasing the surcharge imposed on property and casualty insurance policies back to the pre-2005 amount of 1% (an increase of .45% resulting in approximately ten million dollars \$10,000,000.00) with the funds predominantly dedicated to:

- Providing sufficient capital necessary to fund a self-insured worker's compensation program modelled after the State Worker Worker's Compensation Program and firefighter worker's compensation efforts in other states; and
- Fully funding firefighter training in West Virginia to ease the financial burden on volunteer departments and their members in obtaining required instruction.
- Suggest legislative changes to authorize the formation of fire protection taxing districts within a fire department's territory to allow West Virginia citizens to decide the level of funding they are willing to commit to providing essential resources to their local department.
- Proposing several studies to be conducted at the behest of this Legislature to examine: the prospects and implementation of a pooled risk self-insurance program as offered; to review the proffered recruitment and retention incentives for their feasibility in this State; and to require counties and municipalities to conduct necessary assessments detailed in this report.

The Working Group acknowledges that there are many initiatives, values, objectives, missions and strategies encompassed in this document. In evaluating the report, the Legislature is encouraged to examine the recommendations of this report using the S.M.A.R.T. method: **S**pecific; **M**easurable; **A**ttainable; **R**ealistic; **T**ime-sensitive. The Working Group also respectfully requests that any or all of the Legislature's resulting actions in response to this report be re-evaluated on a 3-5 year timeline to determine effectiveness.

In sum, you will find an attachment to this report contained in Appendix A. The State Fire Marshal, by incorporating the various positions of the Working Group, proffers the proposed "Volunteer Fire Protection Sustainability Act" for your review. This proposition is merely suggested language intended to achieve the individual goals on the topics contained in this report.

On behalf of the entire group of individuals who worked so hard contributing to this first-of-its-kind body of work - we believe this is an exceptional and comprehensive review, analysis, and proposal for strengthening the volunteer and part-volunteer fire service system of West Virginia.

PRINCIPALS OF THE WORKING GROUP

I. The State Fire Marshal

The State Fire Marshal is the agency head of the Office of the State Fire Marshal. The State Fire Marshal oversees and administers fifty-five (55) sworn personnel and staff. The State Fire Marshal performs administrative and supervisory work in the implementation of fire safety programs to minimize fire hazards and the loss of life and property resulting from fires. The work requires considerable knowledge of fire safety, fire hazard assessment and supervisory techniques.¹

The Office of the State Fire Marshal is divided into three (3) main sections: fire safety inspections and plans review; investigations; and services. The inspections division annually conducts an average of 5714 fire code inspections of buildings and structures, as well as reviews 1494 plans for fire code compliance. The investigations division conducts on average 584 fire investigations annually to determine the origin and cause, as well as enforcing arson and fire laws throughout the state. The services division issues licenses or certifications to 16,525 individuals, conducts 88 annual fire department evaluations, as well as facilitates fire prevention education programs statewide. Whenever referenced in this report, the “State Fire Marshal” will mean the duly appointed State Fire Marshal, or Acting State Fire Marshal, whichever is the case.

II. The State Fire Commission

Pursuant to W. Va. Code 29-3-1 *et seq.*, the “State Fire Commission” is composed of thirteen members, qualified by experience and training to deal with the matters which are the responsibilities of the commission. The Legislature has formed and empowered the State Fire Commission because:

(a) A significant part of the population of this state needs improved fire prevention and control; (b) The establishment and maintenance of a coordination program for fire prevention and control for the entire state is necessary to promulgate the safety and well-being of the citizens and residents of this state; (c) Adequate fire prevention and control are not likely to become a reality unless certain administrative functions and procedures are enacted by law; and (d) Fire prevention and control are a public purpose and a responsibility of government for which public money may be spent.

The members of the commission are appointed by the Governor with advice and consent of the Senate and are comprised of: two (2) designees from the West Virginia fire chiefs association; three (3) designees from the West Virginia firemen's association; three (3) designees from the West Virginia professional fire fighters association; one (1) designee from

¹ See generally, W. Va. Code § 29-3-11.

the West Virginia professional fire chiefs association; two (2) designees from the West Virginia manufacturers association; one (1) designee from the professional independent insurance agents of West Virginia; and one (1) designee from the West Virginia society of architects. The members of the state fire commission serve without compensation.² Whenever referenced in this report, the “State Fire Commission” will mean the duly elected Chairman of the State Fire Commission, and/or appointed Commissioners from the State Fire Commission, whichever is the case.

III. The West Virginia State Firemen’s Association

The mission of the West Virginia State Firemen’s Association (WVSFA) is to organize and promote unity among firefighters in the State of West Virginia. The WVSFA advocates for an active participation in all aspects of the fire service including training, education, fire prevention, law and legislative action. The WVSFA seeks to promote comradely, support and common ground between active and retired firefighters as well as volunteer and career firefighters. The WVSFA represents approximate 75% of all fire departments within the State of West Virginia as of Jan 2012, the WVSFA attempts to represent all departments fairly and equally on all issues that they are involved in. As a collective group of advocates, they are actively involved in legislative lobbying to promote a safer, better trained, adequately staffed and equipped fire service. The WVSFA offers scholarships to college bound firefighters, insurance coverages for individuals pertaining to death benefits, training seminars at various locations across the state, sponsorship of the Junior Firefighter Camp at Jackson’s Mill and many other fire service related endeavors across the State of West Virginia. Over the years, the WVSFA has been instrumental in the development of the West Virginia State Fire Commission and they have always maintained a presence on that Commission by direct appointment of representatives by the Governor. The WVSFA was the primary proponent to obtain the “State Fund” that many departments within the State rely upon as their primary funding source. Through the legislative process and their active lobbying campaigns, many small but very important laws were passed, modified or stricken from the record, dependent upon the ultimate needs of communities and the fire service at-large.³ Whenever referenced in this report, the “West Virginia State Firemen’s Association” will mean the designated representative attending Working Group sessions who spoke or represented the association.

IV. State Fire Chief’s Association

The West Virginia State Fire Chief’s Association (WVSFCA) serves the communities of West Virginia through its fire service leaders. They are an organization formed by the volunteer fire chiefs of the state who saw a need to cooperate for the betterment of the fire service of the State. The group works collaboratively to bring about closer contact between the various fire chiefs of the State for their mutual benefit and welfare. The WVSFCA has

² W. Va. Code § 29-3-1 *et seq.*

³ <http://www.wvsfa.org/about/>

continued to grow over the years and its goals have broadened to keep pace with the challenges facing fire service leaders. The WVSFCA serves to exchange ideas, information, knowledge and experiences affecting the safety of life and property from fires. The organization's leadership also perform in leadership positions in the Southeastern Association of Fire Chiefs. Whenever referenced in this report, the "State Fire Chief's Association" will mean the designated representative attending Working Group sessions who spoke or represented the association.

V. National Volunteer Fire Council

The National Volunteer Fire Council (NVFC) is the leading nonprofit membership association representing the interests of the volunteer fire, EMS, and rescue services. The NVFC serves as the voice of the volunteer in the national arena and provides invaluable tools, resources, programs, and advocacy for first responders across the nation. Their object is to provide a unified voice for volunteer Fire/EMS organizations. The NVFC accomplishes its mission and provides meaningful support to fire and EMS organizations through a wide range of services and programs: Representing the interests of the volunteer fire, emergency medical, and rescue services at the U.S. Congress, federal agencies, and national standards setting committees; Focusing on health and safety; Helping departments recruit and retain personnel; Providing training on topics that matter to the volunteer fire service; Assisting departments in establishing support programs; and Fostering the next generation of firefighters. Their programs include: Fire Corps; Heart-Healthy Firefighter Program; National Junior Firefighter Program; SAFER recruitment and retention programs; the Share the Load program; and the Wildland Fire Assessment Program. Whenever referenced in this report, the "National Volunteer Fire Council" will mean the designated representative attending Working Group sessions who spoke or represented the group.⁴

VI. Insurance Commissioner

The West Virginia Offices of the Insurance Commissioner (OIC) work to ensure that a healthy, competitive insurance industry is available to all West Virginians. The OIC regulates the state's insurance industry, focusing on consumers' needs for available and affordable insurance products offered by financially viable companies, whether directly or through knowledgeable producers. The OIC oversees the workers compensation appellant process, ensuring timely, efficient and balanced resolutions to litigated disputes. The OIC is also responsible for administering the workers compensation Old Fund, the State Agency Workers Compensation Program and leads in the investigation and prosecution of all forms of insurance fraud. Whenever referenced in this report, the "Insurance Commissioner" will mean the designated member who represented this office on the Working Group.

⁴ <http://www.nvfc.org/about-the-nvfc>

VII. Secretary of Revenue

The Department of Revenue (DOR) administers and enforces West Virginia revenue laws, including the regulation of insurance, banking, and gaming industries as well as managing other fiscal responsibilities. The mission of the DOR is to lead, oversee and coordinate each of the 10 agencies that comprise the DOR and assist with the following activities: implementation of agency goals, objectives and policies; communication among the agencies and the Office of the Governor; deployment and alignment of resources to advance administration priorities; and development of fiscal policy and generation of accurate fiscal information for revenue forecasting and budgeting purposes. Whenever referenced in this report, the “Secretary of Revenue” will mean the Deputy Secretary of Revenue or his representative attending Working Group sessions who spoke or represented the agency.

VIII. Legislative Auditor

The West Virginia Legislative Auditor’s mission is to provide useful information to the Legislature for legislative decision-making and hold state government accountable for its performance by: measuring the performance of state agencies by measuring outputs, outcomes, compliance and impact in relation to the purpose for which they were created; determining whether there is still a need for an agency or program; measuring the impact of agencies on citizens of the state; and reporting findings and recommendations to the Legislature in a concise and timely manner. Whenever referenced in this report, the “Legislative Auditor” will mean designated the representative attending Working Group sessions who spoke or represented the agency.

IX. State Auditor

The State Auditor is a constitutional officer who serves as the State’s official bookkeeper, Chief Inspector and Supervisor over Public Offices, Securities Commissioner and Commissioner of Delinquent and Non-entered lands. Specific to this report, his office conducts audits of county governments, county boards, county boards of election, municipalities, boards, commissions, districts, offices, public authorities, public corporations, and county boards of education. Whenever referenced in this report, the “State Auditor” will mean designated the representative of the Auditor attending Working Group sessions who spoke or represented the agency.

X. Attorney General

The Attorney General is the chief legal officer of the State. Lawyers and staff of the office represent a host of state agencies, boards, and commissions.⁵ Whenever referenced in this report, the “Attorney General” will mean the assigned Counsel to the State Fire Marshal attending Working Group sessions who spoke or represented the office.

⁵ See generally, W. Va. Code § 5-3-2.

SUMMARY OF ACTIVITIES IN RESPONSE TO THE LEGISLATION

Surveys, Audits and On-going Evaluations

In the regular session of 2013, H. B. 103 created and formed the statutory changes of what has become W. Va. Code § 33-3-33a. The State Legislature appropriated over four million dollars (\$4,000,000.00) from the Office of the State Fire Marshal to be placed in a fund to assist volunteer fire departments in meeting rising workers' compensation premiums. Disbursement from this subsidy fund is administered by the State Auditor. Nearly \$3,000,000 has been expended from the original amount and claims by VFD's are anticipated to exhaust the remaining amount. That fund expires on **June 30, 2016** and no existing measure is in place to deal with mounting worker's compensation costs after that date.

As part of that action, the law imposed upon the State Fire Marshal a duty to provide this comprehensive report. This report requires an assessment of multiple aspects of the fire service, such as the following:

(1) An assessment of all current funding received by the volunteer fire companies and departments, and a further assessment of the funding necessary to provide the community protections required for the areas served by the volunteer fire companies and departments, the extent to which those needs are being met, the extent to which they are not being met, and recommendations of sources of funds to meet additional needs and the amounts needed, if any;

(2) An assessment of the cost of workers' compensation coverage for the volunteer fire companies and departments and recommendations for any actions that may be undertaken by the volunteer fire companies and departments and others to reduce those costs;

(3) An assessment of the causes of any decline in recruitment and retention of volunteer firefighters and recommendations for improvements in this area, including any recommendations for incentives that have a demonstrated record of significant increases in recruitment and retention as well as recommendations of sources of funds to provide those incentives, if funds are necessary;

(4) An assessment of the level of financial accountability that should be required of volunteer fire companies and departments in order to provide the Legislature the information necessary to target future funding for their activities based upon the safety and fire protection needs of the various areas of the state;

(5) An assessment of the comparative levels of funding for volunteer fire companies and departments provided by counties, municipalities and other political subdivisions and the means by which that funding is provided, including identification of those which contribute little or no funding to the volunteer fire companies and departments within their jurisdictions, together with recommendations for increasing those levels of contributions;

(6) An assessment of the comparative levels of funding for volunteer fire companies and departments provided by their own efforts, and the means by which that funding is provided, including identification of those which provide little or no funding through their own efforts, together with recommendations for increasing these sources of funding;

(7) An assessment of the comparative economic and other benefits provided by the various volunteer fire companies and departments to their particular counties, municipalities and other political subdivisions, as well as to citizens of the local communities they serve;

(8) An assessment of the sustainability of the current model of providing fire and other protections to the citizens of rural communities through volunteer fire companies and departments and an assessment of alternative models for providing those protections; and

(9) Other assessments and recommendations which the State Fire Marshal deems appropriate in the circumstances.

In an effort to meet the requirements of this law in a cost effective manner, the Office of the State Fire Marshal developed a "Survey Report Questionnaire," a copy of which is attached in Appendix C. The survey was sent to all 419 volunteer and part-volunteer fire departments of the State. The Office of the State Fire Marshal, the State Fire Commission, and the representative members of the Working Group, were vigilant in encouraging participation by all fire departments in responding to the questionnaire. As of the time of writing, 282 of these surveys have been received and the data summarized for your review in various graphs and outlays.

With the cooperation of representatives of the Legislative Auditor, the findings and conclusions of their processes are included in this report as well. The Legislative Auditor conducts a limited audit of fire department finances. This review is strictly limited to the "state funds" received by the several departments. Audits performed in this regard are focused on ensuring the accounts are properly maintained and that expenditures are lawfully permitted. Volunteer and part-volunteer fire departments are restricted in using these funds only for: (1) Personal protective equipment, including protective head gear, bunker coats, pants, boots, combination of bunker pants and boots, coats and gloves; (2) Equipment for compliance with the national fire protection standard or automotive fire apparatus, NFPA-1901; (3) Compliance with insurance service office recommendations relating to fire departments; (4) Rescue equipment, communications equipment and ambulance equipment: Provided, That no moneys received from the municipal pensions and protection fund or the fire protection fund may be used for equipment for personal vehicles owned or operated by volunteer fire company or department members; (5) Capital improvements reasonably required for effective and efficient fire protection service and maintenance of the capital improvements; (6) Retirement of debts; (7) Payment of utility bills; (8) Payment of the cost of immunizations, including any laboratory work incident to the immunizations, for firefighters against hepatitis-b and other blood borne pathogens; (9) Any filing fee required to be paid to the Legislative Auditor's Office relating to sworn statements of annual expenditures submitted by volunteer or part volunteer fire companies or departments that receive state funds or grants; (10) Property/casualty insurance premiums for protection and

indemnification against loss or damage or liability; (11) Operating expenses reasonably required in the normal course of providing effective and efficient fire protection service, which include, but are not limited to, gasoline, bank fees, postage and accounting costs; (12) Dues paid to national, state and county associations; (13) Workers' Compensation premiums; (14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters; and (15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.⁶ These financial audits are performed on approximately 17 fire departments per year.

In addition to the audits and surveyed replies, the Office of the State Fire Marshal performs outreach through the Fire Department Services section. As part of its statutory duties, the State Fire Marshal conducts regular and repeated evaluations of all fire departments to determine compliance with training, equipment, and operational guidelines as set forth in W. Va. Code 29-3-5d, W. Va. Code R. 87-6-1 *et seq.*, and W. Va. Code R. § 87-8-1 *et seq.* Input from the departments evaluated, in addition to comments from the fire department services staff, are incorporated into the findings of this report.

Working Group Actions

In late 2013, then State Fire Marshal Anthony W. Carrico, in conjunction with then State Fire Commission Chairman Bob Sullivan, began the process of forming the Working Group. Informal meetings commenced in November of 2013. Marshal Carrico appeared before the Joint Committee on Government and Finance on November 19, 2013, and reported on the status of achieving the mandates of the legislation. A copy of the Prepared Statement of Marshal Carrico is attached in Appendix B.

In December of 2013, and again in February of 2014, the Working Group held a strategy and planning meeting to investigate how best to meet the demands of the law. The Working Group was comprised of the Secretary of Revenue, the Insurance Commissioner, the Legislative Auditor, the State Fire Marshal, the State Fire Commission, and the Attorney General. It was determined that a survey to collect data from the volunteer and part-volunteer fire departments was essential to provide the most accurate data to the Legislature.

In the summer of 2014, the Office of the State Fire Marshal, in conjunction with members of the Working Group, formulated the "Survey Report Questionnaire" a copy of which is attached in Appendix C. In August of 2014, the surveys were delivered by U. S. Mail, sent by electronic mail, and made available on the State Fire Marshal's website. These surveys were returnable by October 31, 2014. On November 19, 2014, Marshal Carrico delivered a status update to the Joint Committee on Government and Finance. A copy of the Prepared Statement of Marshal Carrico is attached in Appendix B.

In December of 2014, Marshal Carrico resigned from the position of State Fire Marshal, and on January 1, 2015, Marshal Kenneth Tyree assumed the office. That same month, Working Group members resumed the task of analyzing and evaluating the progress of the tasks at hand. The data was assembled into workable formats. It was also determined that inclusion of stakeholders into the Working Group meetings would provide valuable

⁶ See generally, W. Va. Code § 8-15-8.

insight for the overall process. As such, Marshal Tyree extended invitations to members of the State Fire Commission, to the West Virginia State Firemen’s Association, to the State Fire Chief’s Association, to the National Volunteer Fire Council, and to West Virginia University.

Members of this newly formed Working Group began holding regular monthly meetings beginning in July of 2013, and continuing through the time of writing. These Working Group meetings consisted of: idea sharing; review of prior studies; examining other states’ initiatives; inspecting internal and external data sources; and drafting for approval this report for accuracy of the recommendations. In compiling the volumes of data for the report, the Working Group wishes to acknowledge the laborious and detailed work program educators and students of West Virginia University’s Master of Public Administration program – especially Dr. Karen Kunz. Without their hard work, none of the statistical data and visual summaries herein would have been possible.

Items for Comprehensive Review and Recommendations

(1) An assessment of all current funding received by the volunteer fire companies and departments, and a further assessment of the funding necessary to provide the community protections required for the areas served by the volunteer fire companies and departments, the extent to which those needs are being met, the extent to which they are not being met, and recommendations of sources of funds to meet additional needs and the amounts needed, if any;

When most people consider the fire service of West Virginia, they might imagine that the fire department members are paid wages by a governmental entity. People may also believe that the needs of fire departments are fully satisfied by state, county and local monies. In fact, most volunteer and part-volunteer fire departments in West Virginia are underfunded and continue to do more with less. Fire departments receive funding from: state funds, county fire fees, county levies, other county appropriations, municipal funds, federal grants, other grants, solicited funds, unsolicited funds, fundraising activities, and other community events (bingo, etc.).

A. State Funds

“State funds” are derived from a 0.55% surcharge on all fire and casualty policies pursuant to W. Va. Code § 33-3-33. The funds are distributed to the “Fire Protection Fund” and administered by the State Treasurer. There are two (2) other taxes with funds dedicated to the Fire Protection Fund. The VFD’s receive .25% of the 1% additional tax of W. Va. Code § 33-3-14D. The VFD’s receive 1.55% of the 4.55% surplus lines tax per W. Va. Code § 33-12C-7. In total, there are three (3) taxes with funds dedicated to the VFD’s. The funds are disbursed by the State Treasurer pursuant to the State Fire Marshal ensuring departments

are eligible to receive based on certification and reporting requirements imposed by state law. The current funding provided to volunteer fire departments by this fund is divided (approximately \$43,000 per department) equally across the volunteer fire departments in the State who meet the statutory requirements, e.g. submitting fire reports, being certified by the State Fire Marshal's Office, etc. Of the 434 fire departments in the State, approximately 419 qualify as all volunteer and would be eligible for funding.

Based upon input from the Working Group, specifically the State Firemen's Association, it appears a key issue with funding is the "equity" of disbursement. The issue is that not all of those 419 fire departments have the same emergency response demands. There are disparities in the size of response areas, call volume(s), hazard(s) within response area(s), infrastructure protected, etc.

The current guaranteed revenue stream – the insurance surcharge – has not kept up with inflation. The cost(s) of basic equipment such as Self-Contained-Breathing-Apparatus (SCBA) have increased 400% since 2001; apparatus costs are rising at a rate of 3-5% per year; and training costs have increased.

The State Firemen's Association has long pushed for an increase in the surcharges allocated to volunteer fire departments. With over 96% of the land area and 85% of the population of the State protected by volunteer fire departments, a disproportionate share of Insurance Surtax funding goes to municipal police and fire pension funds. While they recognize the need to adequately fund pensions, much of the responsibility for funding those pensions comes from citizens who do not derive a direct benefit from the services provided by career municipal fire departments. The argument is furthered by the fact that municipalities have the plenary authority to levy and collect fee(s) and/or taxes to support their pension(s) whereas most volunteer fire departments lack any ability to assess any such fee(s) for support and must rely on voluntary donations to fund their operations.

It is noteworthy to mention that this surtax, on a hypothetical \$1,000 homeowner's policy, would currently result in a cost of \$5.50 added to each policy in West Virginia. The proposal of increasing the surtax to 1% would increase that amount by \$4.50 to a flat \$10.00 per year. It is expected that this modest increase would result in approximately \$10,000,000 in revenue that would fully fund worker's compensation costs, cover all training costs for the nearly 10,000 volunteers of the State, and provide funding to address the many other concerns highlighted by this report (*i.e.* recruitment and retention; sustainability; fire prevention programs, etc.).

B. County Funds

"County funds" are derived from several sources: county fire fees, county fire levies and other county appropriations. County fire fees are imposed pursuant to W. Va. Code § 7-17-1 *et seq.* This process requires a petition signed by 10% of registered voters in a county directing a county commission to impose such a fee. The fee may be defeated by a petition signed by 30% of registered voters. The funds derived from such a fee are administered by a county fire board for the betterment of departments in the county. County fire levies may be imposed pursuant to W. Va. Code § 7-1-3d. These funds require the passage of the levy by

the same means as other lawfully imposed tax levies. Some counties simply disburse discretionary funds from their general revenue to the several fire departments.

A breakdown of the county fire funding is as follows:

County	Fee	Levy	Neither	Additional Comments
BARBOUR			X	Fund each fire dept. \$10,000 the funding level is determined on revenue received from coal severance. County is examining the prospect of a fire fee.
BERKELEY	X			
BOONE		X		
BRAXTON			X	
BROOKE		X		no additional funding to VFD's
CABELL		X		Fire and Economic Development with a certain percentage going to each
CALHOUN			X	Has emergency services levy that provides a little funding for VFD's
CLAY			X	
DODDRIDGE			X	Used to have a Fire Levy, but last couple elections was defeated. No regular funding to VFD's, will help at times. One time donation was approved and distributed to each fire dept. for purchase of new truck.
FAYETTE		X		
GILMER			X	
GRANT			X	
GREENBRIER			X	Lewisburg recently passed their fire fee, we have provided funding as it was available or in-kind donations like old police cruisers.
HAMPSHIRE	X			
HANCOCK			X	We do provide our six (6) volunteer fire departments and the city of Weirton with an allotment of \$44,000 each fiscal year.
HARDY			X	Unable to budget an allocation this year because of failing ambulance service.
HARRISON			X	General Co. Funding Budget \$314,000 for 16 fire depts.
JACKSON			X	County budgets \$25,000 for each VFD and \$5,000 from ambulance levy fund to each VFD to offset expenses for first responders.
JEFFERSON			X	Has an ambulance fee but no fire fee. The fee is used for salaries and benefits for ambulance.
KANAWHA		X		Commission contributes \$20,000 annually to Fire Departments.
LEWIS		X		
LINCOLN		X		Has Levy until July 2015. Did not pass in election 2014 will run it again in Feb 2015 in a special levy election.
LOGAN		X		
MARION			X	Will have on 2016 Ballot. The Commission does allocate from Coal Severance funds to all Co. VFD's
MARSHALL			X	Contributes \$18,300 to each of 15 VFD's. The VFD's w/ ambulances receive additional \$7,000. 1 truck per year \$25,000 aid. Co. Fire association \$8,250 yearly.

MASON			X	Fund 6 dept.'s ranging from \$12,500 - \$15,500 yearly. 50% reduction since power plant shut down resulting in \$500,000 in lost revenue to co budget.
MCDOWELL			X	
MERCER	X			
MINERAL		X		Just renewed on this ballot passed at 83% \$3,000 to Fire Fighter Association for Fire School.
MINGO			X	
MONONGALIA			X	\$24,000 to each VFD (12) \$25,000 to Fire Association \$15,000 to HAZMAT team \$7,000 to brush fire unit.
MONROE		X		Passed in the primary first one in history of county
MORGAN	X			No funding to VFD's.
NICHOLAS			X	City of Summersville has their own fire fee. This is the first year we have not made a contribution in a number of years.
OHIO	X			
PENDLETON			X	Contributes \$7,500 annually to both the county fire association and the ambulance authority.
PLEASANTS			X	Pleasants County has no fire levy or fee the city does. The county gives 10,000 a piece to the two VFD in our county.
POCAHONTAS			X	
PRESTON			X	Gives \$3,000 annually to each of 12 VFD's and \$3,000 to each of 7 ambulance squads from county budget.
PUTNAM	X			Residential under 2,500 sq. ft. \$37.50 over 2,500 sq. ft. \$45.00 / Commercial up to 2,500 sq. ft. \$75.00 topping out at \$1,125 for 25,000 sq. ft.
RALEIGH		X		
RANDOLPH			X	
RITCHIE			X	County gives to VFD's.
ROANE		X		Has excess levy that generates \$521,622 yearly with 59.04 to fire dept., 20.61 to emergency ambulance services, and 20.35 to public libraries.
SUMMERS			X	
TAYLOR		X		
TUCKER			X	Funding for Tucker County VFDs are Hotel Motel Fees not to exceed \$100,000.00 split equally between 4 fire companies.
TYLER			X	
UPSHUR	X			
WAYNE			X	
WEBSTER				Due to financial restraints our county does not provide funding to our volunteer fire departments. The only fire fee assessed is in the town of Webster Springs.
WETZEL		X		\$300,000 generated from levy County funded 15/16 \$10,000 to each (11 VFD's) Extra funding to 3 VFD's amounts \$10,000- \$132,000-\$4,000.
WIRT			X	
WOOD			X	A petition is being circulated by VFD's to enact a fire fee. The commission give each dept. \$17,000 and \$6,000 to Fire Fighters Assoc. for fire school.
WYOMING			X	

- Information courtesy of West Virginia Association of Counties (Oct. 2015).

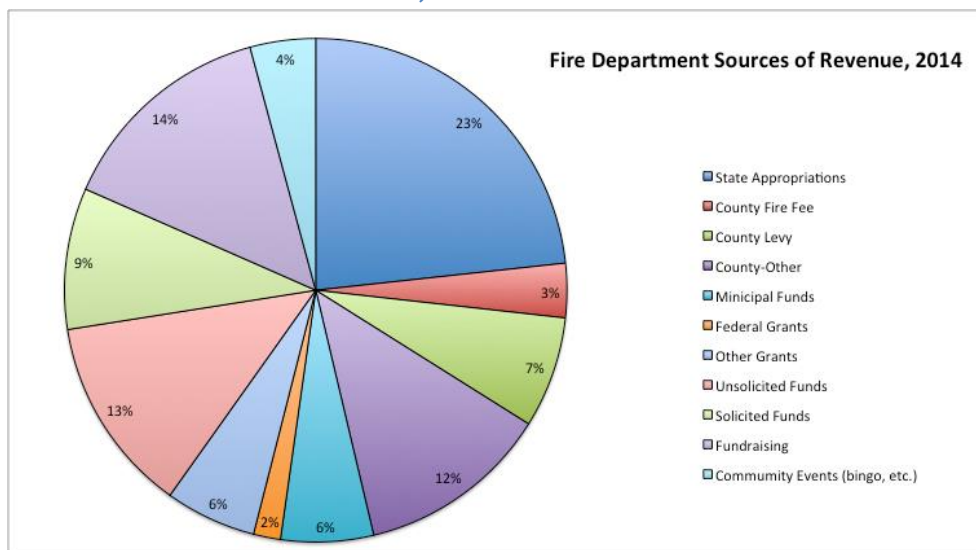
C. Municipal Funds

Some volunteer and part-volunteer fire departments are located within the municipal boundaries of cities and towns. These departments may, or may not, receive funding from the host municipality. Similar to counties, “municipal funds” are derived from: municipal fire protection fund fees, municipal levies and other municipal appropriations. Municipal fire fees are imposed pursuant to W. Va. Code § 8-15-1 *et seq.* Municipal levies may be imposed in the usual and customary manner. Some municipalities simply disburse discretionary funds from their general revenue to the several fire departments.

D. Summary of Sources of Revenue

In order to bring further clarity to the issue, the Working Group surveyed all departments to ascertain the true financial condition of the agencies. It is noteworthy to mention that this data relies upon data in the 2013-2014 timeframe. These amounts have likely been reduced by decreased revenues and charitable contributions from a weakened economy. The first component of the survey sought a detailed examination of how departments are funded. From the amounts self-reported, departments represented the following information:

Overview: Sources of Revenue, 2014

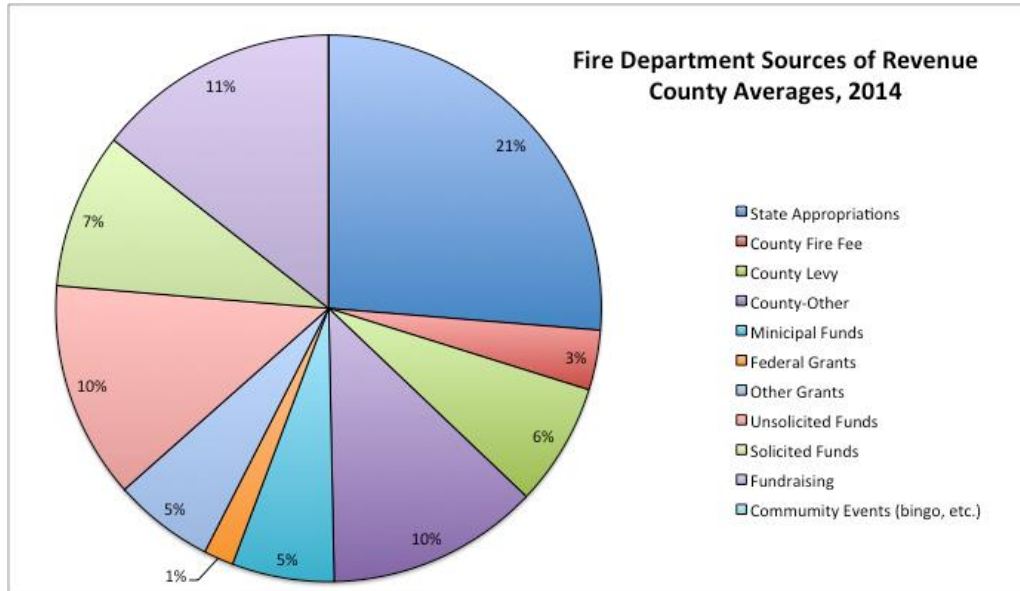


Total survey respondents: 282 Fire Departments

- 254 departments received a total of \$11,545,974 in state appropriations
 - Primary source of revenue for most fire departments (23%)
 - Average per department: \$45,456
 - 28 departments (11% of respondents) reported receiving no state funds
- Most common other sources of revenue
 - Fundraising: 55% of respondents (155/282)
 - Unsolicited funds: 49% of respondents (138/282)
 - County funds-other: 48% of respondents (135/282)

- Least common sources of revenue
 - County fire fees: 13% of respondents (38/282)
 - Community events, i.e., bingo: 16% of respondents (46/282)
 - Municipal funds & other grants: 23% of respondents (64/282)

Sources of Revenue: by County



Averages per county:

- Number of fire departments: 5.13
- Of those:
 - 4.62 received state appropriations
 - 4.56 received county funding (fire fees, levys, grants)
 - 1.18 received municipal funding
 - 2.51 received funds from unsolicited donations
 - .35 (1/3 of 1%) received federal grants
 - 2.82 received funds through fundraising efforts
 - .84 (just over ¼ of 1%) used community events (bingo, etc) to raise revenue

When reviewing similarly comprised states facing challenges of funding, our Working Group focused on the Commonwealth of Kentucky. Kentucky's State Fire Commission faced concerns with a mounting worker's compensation problem. In response, Kentucky's Fire Commission committed to a self-insurance program which has experienced a reduction in costs and loss data. Furthermore, the Commonwealth of Kentucky has created statutory authority for a process whereby their local fire departments may petition the county government, through a block of affected citizens and property owners, to form a fire protection taxing district. This would be a local tax of a *maximum* of \$0.10 per \$100 of assessed value (\$0.20 per \$100 if emergency ambulance service is offered).

With the average home price in West Virginia being \$115,000, that would result in an assessed value of roughly \$70,000. At a median amount of 0.05 on \$100, a taxpayer would expect a \$35 cost added to their tax statement. With nearly 790,000 homes in our State, that means an average VFD protecting 1,880 could expect nearly \$70,000 of added revenue to

assist in their mission. Simply put, local areas could determine what level of fire (or fire/EMS) protection they desire to financially support.

In sum, on this topic, the State Firemen's Association recommendations include:

- Change the "may" in §7-1-3d to "shall" thus requiring County Commissions to take responsibility for funding their volunteer fire departments.
- Modify the WV Code in §7-1-3d. The way it's currently written allows insurance companies to not pay for services they are billed for if their policy holder is involved in an accident/incident. Some policies specifically say they will not pay for fire department services and sometimes insurance companies will state that it does not meet the definition of "Bodily Injury" or "Property Damage". The WVSFA would like to see some language added in some part of the law that specifically states that insurance companies must include payments for auto accidents, structure fires, vehicle fires, and hazardous materials incidents in **ALL** their policies.
- Raise the limit in §7-1-3d to \$1,500.00
- Raise the Insurance Surtax to a full 2.5% with the additional funds being earmarked solely for volunteer fire departments.

The State Fire Chief's Association specifically recommends:

- Requiring utility providers, through the Public Service Commission, that volunteer fire departments are charged the lowest utility rates allowable as does the Commonwealth of Kentucky.
- Exempting VFD's from statutory and local fees (registration/permitting) for fundraising activities like bingo and raffles.

Recommendations of the State Fire Marshal

- The State Fire Marshal is supportive of the recommendations of the WVSFA and SFCA.
- Increase in the Insurance Surtax to 1%
 - With the creation of a formula for the disbursement from the residual increase of the fire protection fund with a portion of that fund going to a fund to provide minimal or "no cost" training to all volunteer fire department members.
 - Decreasing the training cost requirements for all departments statewide and providing the necessary revenue to the instructional service providers.
 - The increased funding would also provide the means to provide all required and necessary training and providing the financial overhead to the instructional service providers.
 - Proposed legislation is attached as Appendix A.

- Establish a mechanism for counties, municipalities, and political subdivisions to create “Fire Protection Taxing Districts” for each fire district; with the intent of establishing model legislation comparative to the State of Kentucky.
 - Proposed Legislation is attached as Appendix A.

2) An assessment of the cost of workers’ compensation coverage for the volunteer fire companies and departments and recommendations for any actions that may be undertaken by the volunteer fire companies and departments and others to reduce those costs;

The State Firemen’s Association reminds us that firefighting and rescue response are inherently dangerous vocations. Members of VFD’s are asked to go out, 24/7/365, in all types of weather, to handle all sorts of emergencies – from trees in the road to house fires; from water rescues to lost person searches; from assisting in weather related emergencies to passing out drinking water. Their job description varies based on community need(s) and situation(s). The divergence of West Virginia communities means that not all volunteer departments do the same thing as another department, *e.g.* some departments provide EMS, others don’t; some do hazardous materials response, others don’t; some do water rescue, many do not, etc.

A. Premium Formulation and Risk Data

West Virginia volunteer fire departments are required to provide worker’s compensation coverage(s) in order to operate within the State. If a department loses its coverage(s) for any reason, the State Fire Marshal is notified and that department must cease operations potentially leaving a gap in emergency response in the area(s) covered by that volunteer fire department. The WVSFA has repeatedly asked for risk/exposure data in order to help control and/or stop loss(es) and/or to develop viable risk management plan(s). To date, all of their requests for said data have been denied. According to the WVSFA, “We cannot be asked to control risk(s) that we are not aware of and/or do not have data to support.”

The Insurance Commissioner requested and provided premium and loss data from NCCI to the Working Group. This data included premium and losses combined for all policies with the class 7711 (firefighters – volunteer) by fiscal year. The data table was subsequently included in the report as support. Further, all VFD policies may request a loss report at any time from the agent of record on the policy. Loss information is readily available for request and should be utilized for loss trending and subsequent risk management plan developments.

The State Firemen’s Association believe the burdens of operating are compounded by VFD’s having to pay increased worker’s compensation costs for the additional hours spent in training. The privatization of worker’s compensation in the State has caused many volunteer fire departments to see a 600-700% increase in Worker’s Compensation premiums despite no significant known increase in claims reported and/or paid.

The Insurance Commissioner, however, asserts that while the workers’ compensation privatization did impact premiums and the premium determination methodology, it is

important to realize that the assigned risk base rate for class 7711 has decreased over 8% since 2013. A key component of the premium determination is member hours. If member hours have increased this will result in the premium increasing as the exposure has increased. If the VFD qualifies for E-mod, this could result in a premium increase. Likewise E-mods can also reduce premium as the E-mods are based on loss experience.⁷

Worker’s compensation premiums for volunteer fire departments in West Virginia are based on reportable man hours. These reportable hours include emergency response(s), training hours, fund raising (in many cases), and other activities related to the operation(s) of the fire department. Simply put, the busier the volunteer fire department and the more they train, the higher their premium(s) will be. As call volume(s) and training level(s) vary widely across the State, so do the premiums paid for Worker’s Compensation coverage(s). One issue discovered by the working group is that VFD’s are assessed a minimum of 1,000 hours per member on the roster. Many of these rosters include members in their rolls who have not reported in some time to the station for meetings, training, or calls. Nevertheless, through this basis, each member costs a VFD \$140 annually for the distinction of remaining on the books assuming an E-mod of 1.

The Insurance Commission noted that member hours are a valid component of the premium calculation. A premium calculation sample is provided for use as reference or to be included as an exhibit in the report.

Premium Determination Example						
Firefighters & Drivers – Volunteer						
Member	Class	Hours	Comparable Wage	Payroll Calculation*	Rate	Manual Premium
A	7711	50	\$14.03	\$ 1,000.00	\$13.25	\$132.50
B	7711	100	\$14.03	\$ 1,403.00	\$13.25	\$185.90
Total Premium						\$318.40

*For 7711 - minimum payroll must be **\$1,000** for premium determination. Payroll = hours x comparable wage
Manual premium = payroll / 100 x rate

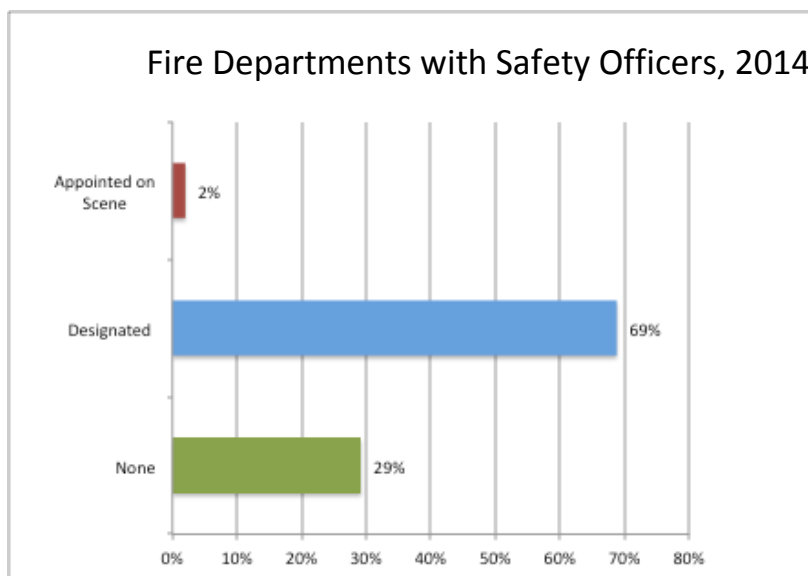
⁷ “E-mods” or “Experience Modification” is a multiplier applied to the premium of a qualifying policy and provides an incentive for loss prevention. The E-mod represents either a credit or debit that is applied to the premium before discounts. If a VFD’s loss experience is more costly on the average than other VFD’s loss experience in the industry, the result is a debit e-mod, or surcharge on premiums. If a VFD’s experience is less costly than the industry average, they will receive a credit e-mod, or discount, on the premium. As an example, an E-Mod of 1 is neutral meaning the claims history is usual and customary and the premium would be neutral. If a VFD has a significant claims history and is assigned an E-Mod of 2, that would mean the premium would be doubled. In the inverse, a VFD with no history having an E-mod of 0.5 would reduce their premium in half.

B. Prior Measures Taken To Reduce Risks

In 2013, in response to mounting safety and operational concerns, the State Fire Commission implemented certain Legislative Rules designed to reduce risk and improve firefighter safety, *e.g.* requiring operators of emergency vehicles to take a class (EVOC); requiring increased training that includes safety components; etc. but even these steps have not resulted in a significant impact on reducing worker's compensation premium costs.

One form of prevention is the assignment of a Safety Officer (or Health and Safety Officer) by each VFD. This individual would function largely in the area of identifying hazards, help forming SOG/SOP for the VFD, working with training providers, assessing and reacting to scene safety issues, and following through in after action. Survey results of the VFD's demonstrate mixed results. The Insurance Commission noted that the following graphs are based on slightly over half of all VFDs (considering previous statement that there are 419 VFDs and using an average of 250 of respondents). Again considering the varying size, activity and safety functions of the VFDs throughout the state, these graphs may not be indicative of the overall VFD loss experience and safety components.

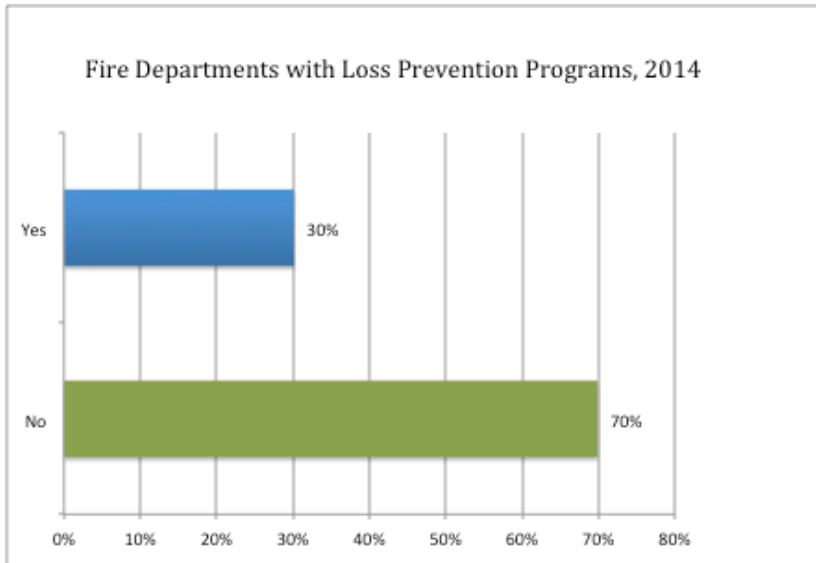
Loss Prevention Data from Survey



Details:

- Number of respondents: 250
- Number of departments with no safety officer: 73
- Number of departments with a safety officer: 172
- Number of departments with officers appointed at scene: 5
- Number who failed to respond to the question: 32

Loss Prevention Programs by Survey



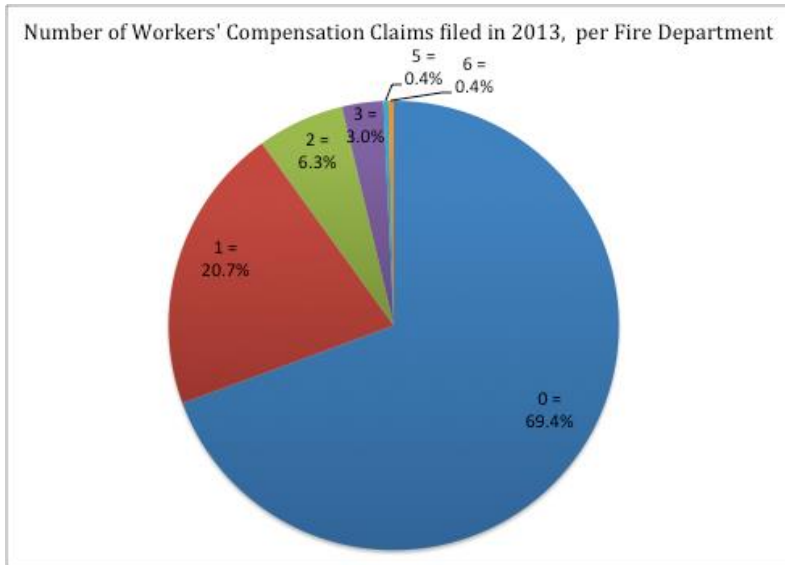
Details:

- Number of respondents: 239
- Number of departments with no programs: 167
- Number of departments with programs: 72
- Number who failed to respond to the question: 43

SAFETY OFFICER & LOSS PREVENTION

- One county with no departments with neither: Taylor
- Counties with at least one fire department with neither
 - Boone
 - Greenbrier
 - Hampshire
 - Hancock
 - Harrison
 - Kanawha
 - Lewis
 - Logan
 - Marion
 - Marshall
 - Mercer
 - Mineral
 - Monroe
 - Ohio
 - Pleasants
 - Preston
 - Raleigh
 - Taylor
 - Tyler
 - Wetzel
 - Wyoming

Number of Workers' Compensation Claims filed per Fire Department in 2013



Details:

Number of respondents: 271

Claims per fire department in 2013

- 0 = 188 (69.4%)
- 1 = 56 (20.7%)
- 2 = 17 (6.3%)
- 3 = 8 (3%)
- 4 = 0
- 5 = 1 (4%)
- 6 = 1 (4%)

Even with limited cost saving measures, the data indicates an increasing exposure to worker's compensation claims. Data provided to the Working Group indicates the following:

Volunteer Fire Department Premium and Loss Summary
as of August 1, 2015

Policy Year / Fiscal Year	Final Audited Premium	Total Incurred
July 2008 – June 2009	\$535,986	\$2,473,483
July 2009 – June 2010	\$574,689	\$574,250
July 2010 – June 2011	\$445,676	\$602,688
July 2011 – June 2012	\$2,120,683	\$1,041,123
July 2012 – June 2013	\$2,284,624	\$1,683,506
Total	\$5,961,658	\$6,375,050

The National Council on Compensation Insurance, NCCI, is our workers' compensation rating and statistical resource.⁸ At the request of the West Virginia Offices of the Insurance Commissioner, NCCI provided premium and loss data for the VFD risks, and related VFD classifications, for the period of FY2009 through FY2013. This was the most recent data available. Based on the data provided, risks in the VFD classification paid \$5,961,658 in workers' compensation premiums for the five fiscal years. This does not include surcharges as surcharges are not considered premium as those payments are dedicated to the WV deficit reduction and workers' compensation regulatory functions and are not used in the payments of claims or losses.

NCCI also provided loss data for the same period for these risks. The total incurred losses for this five year period was \$6,375,050. This incurred amount represents the projected ultimate value. Detailed risk specific loss data is not available.

The Working Group examined the success of the recent "State Agency Workers Compensation" program contained in W. Va. Code § 33-2-21a. This program combined the risk of all participants into a program administered by the Insurance Commissioner. The legislation created a "State Entities Workers' Compensation Program Fund" to sustain the program. It is recognized that such a program may attract little if any qualified carriers to insure the risks associated with the volunteer fire service, it is an unknown quantity at this time. The Working Group also acknowledges that a program of this character would require a substantial initial capital outlay from the Legislature in the implementation stage. That being said, if operational, it is believed that such a program could be administered with the addition of approximately three (3) additional staff members to the Office of the State Fire Marshal, resulting in an anticipated cost of \$200,000 to the agency.

In looking to other state models of guidance, the Louisiana State Fire Marshal's Office is empowered to function in such a capacity.⁹ The Louisiana Legislature intended to present their state fire marshal with a means by which he shall provide workers' compensation coverage to volunteer members of fire companies. See L.R.S. 23:1036(A); see also Appendix D.

The Insurance Commission notes of the Louisiana program:

- There is a 2% Fire Insurance Fund allocated to VFDs with 3% of those funds payable to the State Fire Marshal for workers' compensation premium. While

-
- ⁸ Claims valued as of August 1, 2015.
 - Data provided and validated by NCCI.
 - Policy Year / Fiscal Year includes all policies written in the timeframe provided.
 - The summary above includes data extracted from all policies that had class 7711- Volunteer Firefighter on the policy and does include premium from all classes on the policy including clerical, EMS, diving and any other applicable codes.
 - The incurred amounts provided above include a development factor, calculated by NCCI, which adjusts incurred to ultimate value.
 - Premium includes schedule rating, experience rating and all other premium factors applied to the policy.
 - Final audited premium does NOT include the WV Deficit Reduction, WV Regulatory and/or WV Fire and Casualty surcharges.
 - Surcharges are not considered as premium and are not used in the payments of claim/loss experience. Surcharges are remitted by the carrier to the Insurance Commissioner for payment of the old fund liability.

⁹ http://www.lasfm.org/fi-fd_firemans-insurance.htm

we do have the subsidy fund, the Insurance Commission is not aware of a dedicated fund for our Fire Marshal to use to for the payment of WC premiums for VFD's;

- The carrier for the consolidated policy is Louisiana Workers' Compensation Corporation (LWCC). This carrier is a single state, single line workers' compensation carrier. WV does not currently have a similar option available to employers/VFDs. Carrier information is located here: <http://www.lwcc.com/About/History-Overview>;

- The LA code is very specific that if a member is not on a roster then no coverage is awarded to that member in the event of an injury during the course of their VFD activities;

- The LA State Fire Marshal's Office appears to be the "centralized" unit that administers the policy. The webpage lists the data reporting requirements of each department fire chief: http://sfm.dps.louisiana.gov/fi-fd_firemans-insurance.htm. Further, the LA State Fire Marshal must provide attestation that each claim did occur while in the scope of firefighting/fire department activities. If a program like this was implemented here, the Insurance Commission thinks additional resources would be required to administer the program;

- The policy covers approximately 8,500 VFDs as shown on the fiscal note. The last estimate the OIC has for WV VFD members is 10,980 from 2008 (adjusted to an estimated 9,500 in 2014). We do not have any updated numbers to compare;

- It appears the biggest difference in the benefit structures is the payout of indemnity benefits. There is a 7 day waiting period for lost time wage replacement. However, you must be off for 2 weeks before the initial 7 days are included in the benefit. Example: If you are off 9 days, you will receive TTD benefits for 2 days. If you are off 15 days, you will receive TTD benefits for 15 days. With less benefits paid out, the lower the premium. WV has a 3 day wait until benefits are paid and is retroactive if lost time is greater than 7 days. Both states pay a rate of 662/3%;

- The Insurance Commission checked the LA "7711" classification and it is not state specific;

- There are NO indemnity benefits paid for any VFD accident. When priced to include indemnity the premium would have doubled or more due to the unknown exposures;

- There IS an accident and sickness policy written by Hartford that the LA Fire Marshal felt filled some of the gaps from the lack of indemnity benefits on the comp policy;

- The workers compensation policy only provides medical benefits;

- The VFD workers comp policy does not cover junior VFDs (teenagers or those still in training). However, the A&S policy does.

Recommendations discussed by the Working Group consisted of:

- Self-Insurance (pooled risk plan)
- Authorization for an RFP/RFQ to determine qualified carriers and anticipated costs to underwrite such a program, if any.
- Mandated risk reducing/safety programs for evaluation implemented by the State Fire Commission.
- More detailed scrutiny of the percentage of claims per department versus the overall.

Recommendations of the State Fire Marshal

- The State Fire Marshal concurs in the recommendations of the Working Group
- Establish a study for a Worker's Compensation Self-Insurance program and study the possibility of it being administered through the State Fire Marshal's Office similar to Louisiana Workers Comp Self Insurance program.
- Require each department to provide a Risk Management Plan with emphasis to utilize the National Fallen Firefighters Vulnerability Assessment Plan.
- Encourage evaluation of an in-depth review of each department's membership roster and a mechanism for exempting "non-active" members from coverage
- Encourage accurate reporting to ensure fair insurance premium cost.
- Proposed legislation attached as Appendix A.

(3) An assessment of the causes of any decline in recruitment and retention of volunteer firefighters and recommendations for improvements in this area, including any recommendations for incentives that have a demonstrated record of significant increases in recruitment and retention as well as recommendations of sources of funds to provide those incentives, if funds are necessary;

Based upon a study by Dr. Kelly Nix of WVU's Extension Service program, West Virginia is experiencing a marked decline in volunteerism. The volunteer rate in this state has declined from 26.1% in 2005, down to 24.7% in 2009, and trending downward. 90% of respondents cite time requirements as a reason for not volunteering; 59% cite demands of full-time work. The average volunteer firefighter in West Virginia is 20-39 years of age, over 80% are married, over 90% are male, over 45% are blue collar, over 50% have friends who are firefighters, and over 70% volunteer only in a fire department capacity. Based on the study, significant hurdles are: inadequate recruitment efforts; increased turnover; lack of sufficient training; lack of supervision; and poor relations between VFD's and career fire departments. Additional factors are: volunteers availability; retention efforts; lack of time to train; lack of blue collar workers to recruit; experienced "older" members resistant to a new direction; drug problems; volunteer burnout (same 10 people); availability of training; worker's compensation; and a new mindset of a younger generation.

The study found that volunteer participants leave due to: poor or no communication; no recognition; favoritism; low standards; poor attitude; weak training; work pressures; competing priorities; inconvenient meeting times; financial constraints; family responsibilities; and too much downtime. Those leaving fire organizations demonstrated: the work was not what they expected; a mismatch with the organization; too little coaching/feedback; few growth and advancement opportunities; and a lack of recognition.

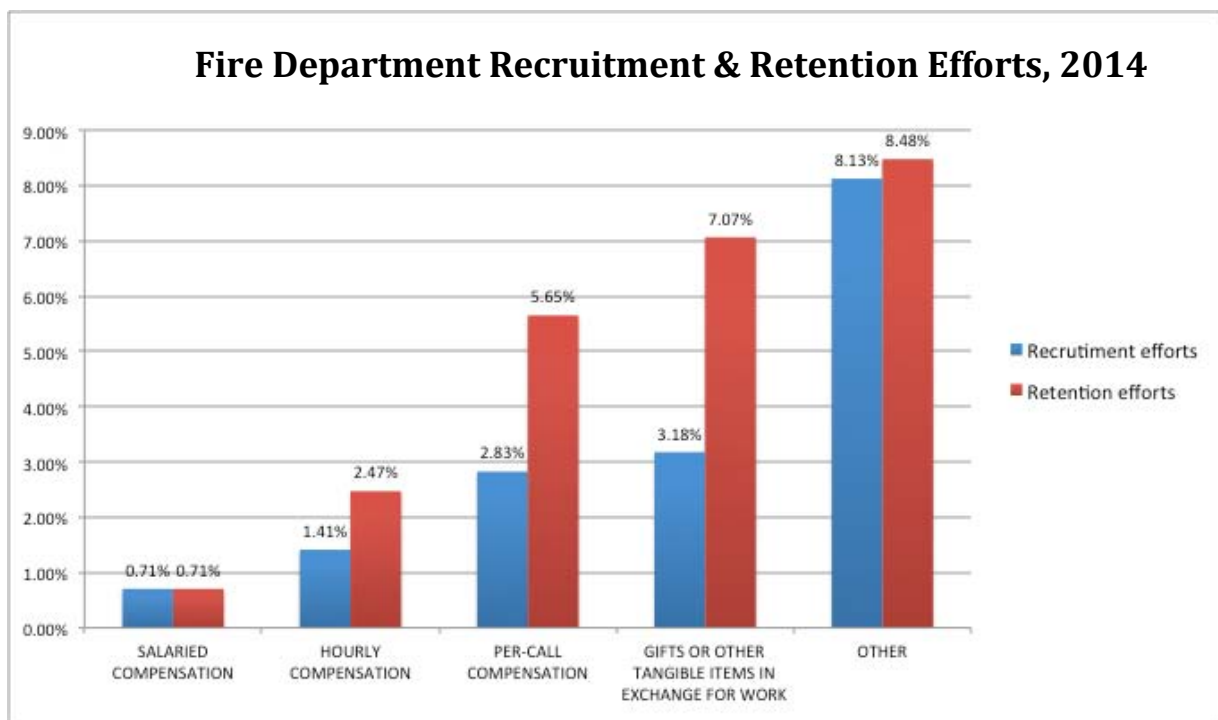
According to the WVSFA, there is no state-wide incentive to be a volunteer firefighter other than the desire to help your community. The cultural shift has been away from a sense of community to a "what's in it for me" mentality. It is a national problem and not just a West Virginia issue. The events of 9/11 saw a resurgence of volunteerism but that resurgence has

long since waned. Increased training demands, lack of benefit(s), economic trends, and other salient factors have contributed to the decline.

According to the WVSFA, every initiative to provide some sort of incentive to volunteers through the legislature has met with failure. Length of Service Award Programs (LOSAP), Waiver of license plate fee(s) for the primary vehicle used for response; tax credits or exemptions; free night stay in a State Park; tuition credit(s); etc. – have met with little to no support in the legislature. We have been told, “...if we give it to you, then we have to give it to others...” – but others don’t do what we do – they don’t have nearly the statutory and/or civic responsibilities that volunteer fire departments have in the State.

In an effort to examine the efforts of the VFD’s to engage in their own recruitment and retention programs, the Working Group evaluated the data from the survey. The results of this examination are as follows:

Retention & Recruitment



The information demonstrated that the vast majority of respondents do not engage in any recruitment or retention efforts at all.

- “Other” means are used for recruitment and retention efforts most often, and that is only by approximately 8-8.5% of respondents, respectively.

Of those that do, many use the same inducement for both retention and recruitment. For example if the department uses per-call compensation to recruit, they tend to also use it to retain.

- Interestingly, per-call compensation and gifts and other tangible items are used to retain firefighters at least twice as much as they are to recruit new personnel. Hourly compensation is also used more often to retain than recruit.
- Only one fire department, Princeton Fire Department in Mercer County, uses all methods for both recruitment & retention.

The counties that reported NO recruitment or retention efforts:

Berkeley	Mingo	Ritchie
Boone	Monroe	Roane
Calhoun	Morgan	Taylor
Hardy	Ohio	Upshur
Lewis	Pendleton	Wyoming
Logan	Pleasants	
Mason	Preston	

Recommendations of the WVSFA are as follows and attached as Appendix E:

- Implementation of a LOSAP Program in the State
- Tax Credit (not a deduction) for being an **active** member of a volunteer fire department
- Tuition credit if an **active** volunteer to attend a public college or university
- Personal property tax waiver on the vehicle primarily used for responding to emergencies
- Waiver of the license plate fee(s) on the vehicle primarily used for responding to emergencies
- Increase State death benefit for line of duty death to \$100,000.00 (W. Va. Code § 5H-1-1 *et seq.*)

Recommendations of WVU include:

- Immediately increase utilization of online tools (website, social media, etc.) to advertise, market, target select groups
- Demonstrations at fairs and festivals, school programs, local events
- Incentivise a buddy system of bringing in new recruits
- Increase benefits, tax breaks, funding sources, and early start programs
- Find better volunteers and give compelling reasons to stay
- Provide a quality organization, show pride, supportive environment, value staff, welcome newcomers, share ideas, limit downtime, follow-up with missing volunteers, avoid burnout, establish clear expectations, make the mission relevant

Recommendations of the State Fire Marshal

- The State Fire Marshal agrees with the recommended items from the WVSFA and WVU

- Advocates fire departments to provide recruitment and retention plans which includes the National Volunteer Fire Council New Initiative “Make Me a Firefighter” campaign and other available resources.
- Create a mechanism for subsidizing training of volunteer fire department members to include reimbursement incentives for meals and lodging expenses.
 - Funds coming from the increase to the surcharge which is mentioned in Item # 1 and Appendix A.
- Establish a local funding mechanism through taxing districts to provide for hourly wages to VFD members. See Appendix A.
- Encourage the establishment of networking opportunities for fire departments to discuss and share their successful ideas and strategies of their programs.
- Foster local programs to utilize federal grants to compensate firefighters (SAFER grants)

4) An assessment of the level of financial accountability that should be required of volunteer fire companies and departments in order to provide the Legislature the information necessary to target future funding for their activities based upon the safety and fire protection needs of the various areas of the state;

Increasingly, the lack of accountability in oversight of volunteer fire department monies has resulted in embezzlement and misuse of funds. Several recent high-profile cases have emphasized this point.

The WVSFA fully supports the full and total accountability of any and/or all public funds. But they pose the question as to, “What are public funds?” WVSFA notes that most volunteer fire departments in the State are IRS 501[c] (3) or (4) non-profit corporations. There rely on varying opinions and conflicting State Code sections as to whether they are political subdivisions of the State; one Attorney General’s opinion refers to them as, “Quasi-political subdivisions” of the State; and other opinions that say that they are independent and autonomous organizations. The WVSFA believes that these opinions are conveniently used when it comes to the bottom line question – “Who is responsible to see that volunteer fire departments are adequately funded and supported?” With the follow-up questions by the WVSFA of:

- To what standard(s) will volunteer fire department finances be evaluated?
- Will volunteer fire departments that have been fiscally prudent and/or conservative have their State funding cut to augment other departments who have been irresponsible and/or liberal in their spending?
- Who will determine what a fire department “needs”?

Most volunteer fire departments that receive levy funds are subject to desk audits by an outside auditor (typically a CPA). Departments that run raffles and bingo games and/or raffles are subject to audits by the West Virginia Lottery. Insurance Surtax funds are subject to audit by the Legislative Auditor. Some volunteer fire departments file detailed IRS 990 forms and others, because of their limited income(s) on file the IRS 990 “Short Form”.

Every single WVSFA member fire department polled at the State convention stated that they would have no problem with full and open disclosure of their finances IF they were not forced to have to do boot drives, bean dinners, raffles, bingo, pancake breakfasts, bake sales, water hauling for swimming pools or otherwise begging their community for funds. There is an issue with having to disclose to a third party something in which that third party does not have a vested interest. Does the State - or will the State - do the same for all of the other non-profits and/or private businesses that operate within the State?

In this regard, the Auditor's delegate recommended the following for the financial accountability aspect:

- The departments should be required to prepare a Statement of Net Assets which includes all assets and liabilities by major category that may include but is not but not limited to cash, investments, accounts receivable, capital assets, accounts payable, long term notes payable.
- Each department should be required to prepare a Statement of Revenues, Expenditures and Changes in Fund Balance by major category that may include but is not but not limited to the revenues of Local support, State support, Federal support, Fire service Fees, Bingo and raffle revenue, excess levy allocations, interest, donations and the expenditures of Personal services, payments to other fire departments, repairs and maintenance, depreciation, office and supplies expense, professional services, and interest and fiscal charges.
- Notes to the financial statements should be required in accordance with generally accepted accounting principles for larger fire departments.

This only contemplates some standard financial reporting techniques already in place for some of the departments that fall under State Auditor's auspices (which is a small % of them). There may be other schedules that could be required to help the Fire Marshal evaluate the departments such as calls answered, a schedule of capital assets, number of employees and payroll cost by year, etc. From a practical standpoint it would make sense to prepare a report shell that contains the necessary information to satisfy this and other code requirements (i.e. Legislative Auditors, Tax Commissioner) in order streamline the reporting requirements for the departments.

Recommendations of the State Fire Marshal

- Require all VFDs to provide full financial statements detailing assets (all funds received) and detail of all expense liabilities. The financial statement would be developed by a third party agency of each department's choice. Disclosure of this information could be limited to each county's commission.
- Proposed legislation is attached in Appendix A.

(5) An assessment of the comparative levels of funding for volunteer fire companies and departments provided by counties, municipalities and other political subdivisions and the means by which that funding is provided, including identification of those which contribute little or no funding to the

volunteer fire companies and departments within their jurisdictions, together with recommendations for increasing those levels of contributions;

In the survey data, the responding VFD’s provided financial summaries indicating the amounts received from the sources requested. The table below shows the distribution of income broken down by county as compared to other sources of revenue.

Fire Department Survey: Funding Sources by County, 2014

n=282/460

	Number of fire departments within the county that have received funding from these sources											Total State Appro	Average Appro per Fire Depart.	
	Total Fire Depts. ¹⁰	State Appro x.	Co. Fire Fee	Co. Levy	Co. Other	Muni. Funds	Fed. Grant	Other Grant	Unsol Funds	Solicited Funds	Fund-raising			Comm Events (bingo, etc.)
Barbour	2	2	0		1	1	0	0	1	1	2	2	\$104,900	\$52,450
Berkeley	3	3	3	0	0	0	0	0	3	0	3	1	\$87,824	\$29,275
Boone	4	4	0	4	0	1	0	0	2	0	1	0	\$244,199	\$61,050
Braxton	5	5	0	0	4	3	0	1	3	3	3	0	\$216,116	\$43,223
Brooke	8	8	0	8	0	1	2	2	4	3	4	2	\$362,815	\$45,352
Cabel	4	3	0	4	0	1	0	3	1	1	3	0	\$135,259	\$33,815
Calhoun	3	2	0	3	1	0	0	0	2	0	2	0	\$135,231	\$45,077
Clay	1	1											\$45,010	\$45,010
Doddridge	4	4	0	0	1	0	0	0	3	0	1	0	\$196,533	\$49,133
Fayette	10	7	0	10	1	2	0	4	2	1	0	1	\$271,294	\$27,129
Gilmer	1	1	0	1	0	0	0	0	0	0	0	1	\$45,249	\$45,249
Grant	1	1	0	0	1	0	0	0	1	0	1	0	\$45,010	\$45,010
Greenbrier	8	8	0	0	1	3	1	2	6	4	4	2	\$360,520	\$45,065
Hampshire	6	5	0	6	0	0	1	0	4	0	4	2	\$203,033	\$33,839
Hancock	6	5	0	1	6	3	0	0	2	0	4	1	\$198,989	\$33,165
Hardy	2	2	0	0	2	0	0	0	2	1	2	1	\$488,969	\$244,485
Harrison	11	11	1	2	8	6	0	2	11	5	6	0	\$474,936	\$43,176
Jackson	2	1	0	0	2	1	0	1	1	1	1	1	\$45,182	\$22,591
Jefferson	3	2	0	0	3	2	0	2	2	2	3	2	\$80,242	\$26,747
Kanawha	15	13	0	6	9	3	0	6	4	12	3	6	\$515,596	\$34,373
Lewis	4	4	4	0	3	2	1	2	3	1	4	2	\$122,561	\$30,640
Lincoln	1	1	0	1	0	0	0	0	0	1	0	0	\$47,000	\$47,000
Logan	9	6	0	8	1	1	1	1	0	0	2	0	\$191,676	\$21,297
Marion	8	7	2	1	6	3	1	3	5	6	4	2	\$314,549	\$39,319
Marshall	9	8	0	0	8	1	0	1	4	5	5	1	\$346,162	\$38,462
Mason	5	5	0	0	5	3	0	2	4	2	3	0	\$226,910	\$45,382
McDowell	6	4	0	0	0	1	0	1	0	0	2	0	\$184,011	\$197,335
Mercer	8	8	7	0	1	1	1	5	3	1	2	1	\$333,529	\$41,691
Mineral	7	6	0	7	1	0	2	2	3	5	7	0	\$277,364	\$39,623
Mingo	6	6	0	0	6	1	1	0	3	3	4	1	\$286,094	\$47,682
Monongalia	11	10	0	0	11	2	1	2	5	6	11	3	\$477,556	\$43,414
Monroe	2	1	1	2	0	0	0	0	1	0	2	0	\$42,000	\$21,000
Morgan	4	4	4	0	1	0	0	1	2	2	2	0	\$180,032	\$45,008
Nicholas	5	4	0	0	5	1	0	1	2	2	4	1	\$184,871	\$36,974
Ohio	4	3	2	0	2	2	0	1	4	1	1	0	\$139,816	\$34,954

¹⁰ The “Total Fire Departments” data represents the total number of departments responsive to the survey, rather than the total number of departments located in the representative county.

Pendleton	5	3	0	0	1	0	1	2	3	3	3	1	\$140,010	\$28,002
Pleasants	2	2	0	0	2	2	0	1	1	0	1	0	\$90,010	\$45,005
Pocahontas	4	4	0	0	4	0	0	0	2	3	2	0	\$170,265	\$42,566
Preston	11	10	0	0	10	2	0	1	5	0	9	0	\$445,619	\$40,511
Putnam	7	7	7	0	0	2	2	2	2	1	3	4	\$313,576	\$44,797
Raleigh	5	5	0	1	0	0	0	1	1	0	2	0	\$215,998	\$43,200
Randolph	11	11	0	0	11	2	0	1	5	2	6	2	\$451,820	\$41,075
Ritchie	2	1	0	0	0	0	0	0	2	1	2	0	\$45,000	\$22,500
Roane	4	4	0	3	1	0	0	0	3	0	2	1	\$180,000	\$45,000
Summers	5	4	0	0	0	1	1	2	3	3	1	0	\$185,036	\$37,007
Taylor	1	1	0	1	0	0	0	1	0	0	1	0	\$45,010	\$45,010
Tucker	4	4	1	0	3	2	0	1	2	2	4	1	\$180,980	\$45,245
Tyler	2	2	0	0	0	0	0	1	0	0	0	0	\$90,096	\$45,048
Upshur	2	2	2	0	0	0	0	1	2	0	2	1	\$91,827	\$45,914
Wayne	3	3	1	3	0	2	2	1	1	2	1	0	\$93,510	\$31,170
Webster	3	3	0	0	0	1	0	1	1	1	1	1	\$138,278	\$46,093
Wetzel	9	9	3	6	0	3	0	0	8	4	4	0	\$370,813	\$41,201
Wood	10	10	0	0	10	3	1	1	4	7	10	2	\$509,884	\$50,988
Wyoming	4	4	0	0	3	0	0	2	0	1	1	0	\$177,204	\$44,301

Based on the findings of the Working Group, the amount of funding provided to volunteer fire departments by counties, municipalities and other political subdivisions varies widely across the State. Some counties provide no funding for volunteer fire departments in their county. In other counties without fire fees or levies, the amount of funding provided by the County Commission varies and is subject to budgets and appropriations and should not be considered a reliable and/or a stable source of funding. Not all municipalities provide funding for the fire department(s) located within their jurisdiction(s). Some even collect “emergency services fees” but then do not pass those funds on to the volunteer fire departments serving their communities. It is also important to note that most volunteer fire departments located in municipalities have response areas that far exceed the boundaries of the municipality where they are located.

According to the WVSFA, the existence of a fire levy in a county is no guarantee that a fire department will receive funding through that levy. This leaves the perception with the fire departments that the funds are used for political purposes and not necessarily true need(s).

Recommendations of the State Fire Marshal

- Require a county-wide assessment giving consideration to each county’s, municipalities, and political subdivisions contribution to their local fire department to ensure adequate funding is provided for the established services provided. Establish specific criteria for the maintaining the certain number of departments based on number of “active” membership within the department, call volume and responses of each fire department. A reduction of the number of departments may have to be considered based the assessment and its findings and should be determined by each county and the rules of the Fire Commission.

- Examine and evaluate Fire Board (W.Va. Code §7-17-1 et seq.) and EMS (W. Va. Code §16-4C-1 et seq.) to find ways of strengthening emergency service protection and promoting efficiencies in the existing system.
- Study underserved geographic areas of the State to explore ways of increasing emergency service protection at the local level.
- Proposed legislation is attached as Appendix A.

(6) An assessment of the comparative levels of funding for volunteer fire companies and departments provided by their own efforts, and the means by which that funding is provided, including identification of those which provide little or no funding through their own efforts, together with recommendations for increasing these sources of funding;

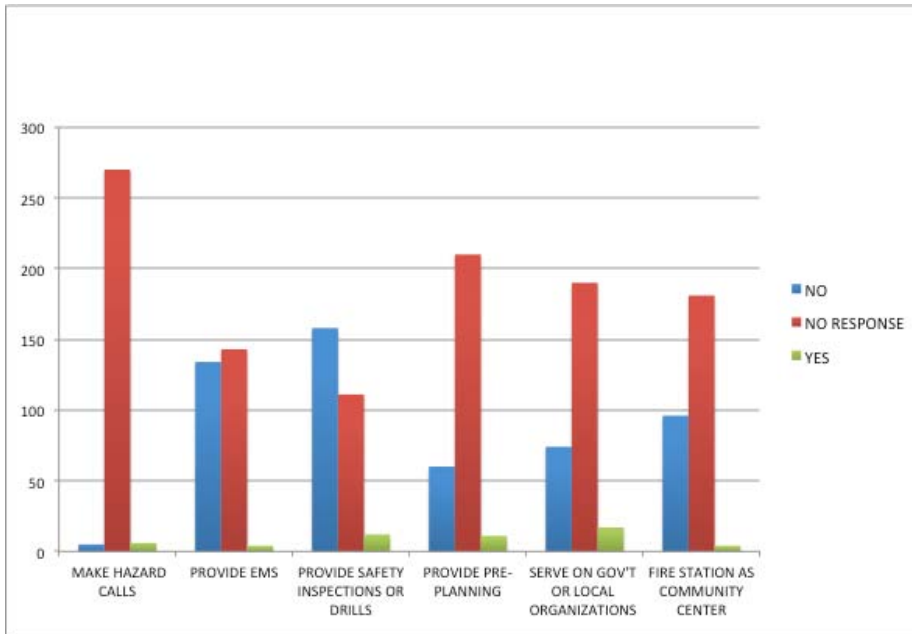
The WVSFA member departments polled take issue with this item. The perception of this item is that the State is looking to see how much of the State’s responsibility to volunteer fire departments can be shifted back to them – what is their capacity to fundraise. Further, not all communities and/or volunteer fire departments have the capacity to hold substantial fundraisers. It is important to note that it takes manpower, start-up expenses, etc. to hold fundraisers. It is also critical to note that volunteer fire departments are also competing for fundraising dollars with other civic groups – little leagues, school groups, churches, etc. (Please see the questions listed in Item #4.)

Recommendations of the State Fire Marshal

- Require the creation of a Financial Management training program for all senior level leadership to include chief officers, fire board presidents and directors, and department secretary and treasurers with the choice of classroom style or web based program use.
- Recommend all fire departments pursue available grants at all levels.
 - With the WV Homeland Security Administration and Fire Marshal’s Office establishing grant writing workshops throughout the state at established regional locations.
- Proposed legislation is attached as Appendix A.

(7) An assessment of the comparative economic and other benefits provided by the various volunteer fire companies and departments to their particular counties, municipalities and other political subdivisions, as well as to citizens of the local communities they serve;

This topic was one of the more difficult tangible items to discuss. Many West Virginia communities rely heavily on the services provided by their VFD. It was noted during the Working Group meetings, “If the police can’t arrest it, and EMS can’t take it to the hospital, the fire department is expected to fix it.” In an effort to quantify the services of the VFD’s, the survey data presented the following:



The WVSFA provided the following data for valuing the service provided by VFD's. Data suggests that the value of a volunteer in this arena is \$20.24 per hour in West Virginia.¹¹ Applying that figure to the VFD's of our State:

- With the 419 VFD's multiplied by four (4) members as recommended by NFPA, that would equal a minimum of 1676 personnel for the minimal coverage of 1 engine;
- With 168 hours in a week multiplied by a 52 week year = 8736 yearly hours to provide minimum protection;
- Extrapolating that number out would result in 34,944 man hours per VFD - 14,641,536 total man hours annually; **\$296,344,688.64 in total labor costs saved.**
- That figure is without fringe benefits, overhead, employer contributions, health care, etc.
- With a modest standard burden rate used by Bureau of Labor Statistics of 35.1%, the total labor savings is **\$400,065,329.66.**
- Not considering any added costs, the taxpayers return on investment is 21.1 to 1.

Recommendations of the State Fire Marshal

- Require a statewide study of each county to evaluate the economic needs and benefits that are provided by each fire department within each said county.
 - Possibly utilizing graduate study programs (*i.e.* WVU Public Administration) for research and report development which could provide vital information to ensure the best fire protection is provided throughout the state.

¹¹ https://www.independentsector.org/volunteer_time

(8) An assessment of the sustainability of the current model of providing fire and other protections to the citizens of rural communities through volunteer fire companies and departments and an assessment of alternative models for providing those protections; and

The current model of fire protection in the State, at the current rate of funding, and with the current lack of incentives for recruitment and retention is not sustainable. There are currently dozens of volunteer fire departments under review by the State Fire Commission for deficiencies in training, equipment, and manpower.

- Funding mechanisms have not kept up with inflation – costs (fuel, equipment, training, insurance[s], administrative, etc.) are skyrocketing while funding is neutral
- There is a general perception that everyone wants to dictate how we operate and impose rules and/or regulations but then no one wants to take the responsibility to ensure that volunteer fire departments are adequately funded.
- Many volunteer fire departments are struggling with recruitment and retention.
- Volunteer fire departments are concerned about how they are going to pay their Worker's Compensation premium(s) should the current State subsidy go away.

There is currently little or no State support for volunteer fire department managers and/or boards of directors. There is also currently no required training for Board members and/or municipal managers who oversee the fiscal operations.

Recommendations of the State Fire Marshal

- Utilizing the previously established recommendations from Items #1, 2, & 7; the information provided could provide the necessary information for the establishment of a statewide Fire Service Sustainability Model.
- Recommended legislation included in this report will provide necessary financial resources to incentivise sustainability
- Proposed legislation is attached as Appendix A.

SUMMATION AND CONCLUSION

Other assessments and recommendations which the State Fire Marshal deems appropriate in the circumstances.

- Encourage each county commission to require annual reporting by each of their servicing fire departments on their recruitment and retention efforts with an emphasis on the strength (# of active members); emergency response/call volume statistics; public education statistical efforts, and financial accountability of each of the said county's fire departments.
- Encourage the establishment of regional fire service training which would be conducted semi-annually in regionally located areas giving consideration to training needs and resource capabilities of each area. This training should be conducted during the same time each year of Mid-April to Mid-May and Mid-October to Mid-November.
 - The recommended re-establishment of the full 1 percent insurance surtax and the increased to the fire protection fund would be set aside to cover this “minimal or no cost” training for all fire department members.
 - The State Fire Commission through the State Fire Marshal's Office could administer the “training” fund.
- Encourage each county to provide a participation based award and incentive program based on activities including but not limited to training drill attendance, a certain percentage of the department's call and alarm responses. The awards could include cash or merchandize based award incentives or whatever established criteria each county and their fire departments determined as reasonable and adequate.
- Proposed legislation is attached as Appendix A.

FINAL REMARKS

The key concepts presented by the Working Group are multidimensional. This report was developed to summarize the various positions involved and to promote a way of moving forward through the most efficient use of available resources. This report is intended to provide a succinct overview of efforts past efforts and proposed new directions to sustain our volunteer and part-volunteer fire service. The report provides critical information that this Legislature can use to formulate law to aid in providing a means of supporting, fostering, and flourishing this needed profession. The study that generated this product was the first-of-its-kind and would not have been conducted without the inducement of the Legislature, and the hard work of the members of the Working Group.

The Legislature should consider a wide range of issues when determining whether the recommendations are appropriate both legally and practically. Experience in other states provides a wealth of experience from which these agencies can learn to make informed decisions. Careful consideration of these issues can help ensure that a robust and effective volunteer fire service continues for generations to come, without having negative immediate impacts on safety and operations.

The following succinct results can be taken away from this report:

- VFD's are clearly underfunded by all levels of government;
- VFD's current worker's compensation model is unsustainable;
- VFD's membership is declining;
- VFD's are sometimes mismanaged;
- VFD's are under supported by local government;
- VFD's are understandably reducing their own efforts to derive funds;
- VFD's are essential to their local community;
- VFD's in West Virginia are in danger of extinction if nothing is done.

As a result of the information gained from this study, consideration should be given to the following:

- A modest increase to the insurance surtax is essential to provide funding for needed programs (*i.e.* worker's compensation funding; training needs; necessary programs, etc.);
- A concerted effort must be made by the Legislature to empower VFD's to seek local funding;
- An alternative model of buttressing worker's compensation must be found;
- Efforts must be made to incentivise productive membership in VFD's;
- Transparency and accountability should be a required component of any program formed by the Legislature;
- West Virginia cannot "kick-the-can" any longer on these issues. We cannot.

APPENDIX A:
“Proposed Volunteer Fire Service Sustainability Act”

PROPOSED VOLUNTEER FIRE SERVICE SUSTAINABILITY ACT

BILL NO. _____

(By _____
By Request of the State Fire Marshal)

[Introduced _____; referred to the Committee on the
_____; and then to the Committee on _____.]

A BILL to amend the Code of West Virginia, 1931, as amended, by repealing and replacing §5H-1-1, §7-1-3d, §8-15-4, §8-15-5, §8-15-6, §8-15-8a, §8-15-8b, §8-15-8c, and §33-3-33; by repealing, §8-15-7, by adding thereto a new section, designated, §29-3-33, by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12; all relating to the sustainability of the volunteer and part-volunteer fire service; increasing the payment of death benefits for line of duty death to \$100,000; by authorizing counties to form fire and rescue units; clarifying provisions relating to billing for fire department services; requiring annual reporting to county commissions by local fire departments; establishing of fire protection taxing districts; clarifying provisions of municipal law relating to municipal volunteer and part-volunteer fire departments; authorizing a pooled risk self-insurance system for volunteer and part-volunteer fire departments; creating a "Volunteer Fire Protection Worker's Compensation Fund"; reforming the organizational structure of volunteer and part-volunteer fire departments; establishing a process for fire protection taxing districts and merger thereof; providing for the expenditure of revenues; defining the powers of the district; prohibiting certain conduct; and increasing the surcharge on property and casualty policies in this state from 0.55% to 1% with the increased amount designated for workers compensation programs and statewide emergency service program training costs.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, be amended, by repealing and replacing §5H-1-1, §7-1-3d, §8-15-4, §8-15-5, §8-15-6, §8-15-8a, §8-15-8b, §8-15-8c, and §33-3-33; by repealing, §8-15-7; by adding thereto a new section, designated, §29-3-33; by adding thereto a new article, designated §29-3E-1, §29-3E-2,

§29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12 to read as follows:

CHAPTER 5H. SURVIVOR BENEFITS.

ARTICLE 1. WEST VIRGINIA FIRE AND EMS SURVIVOR BENEFIT ACT.

§5H-1-1. Title and legislative intent.

(a) This article is known as the "West Virginia Fire, EMS and Law-Enforcement Officer Survivor Benefit Act."

(b) It is the intent of the Legislature to provide for the payment of death benefits to the surviving spouse, designated beneficiary, children or parents of firefighters, EMS and law-enforcement personnel killed in the performance of their duties. §5H-1-2. Death benefit for survivors.

(a) In the event a firefighter, EMS or law-enforcement provider is killed in the performance of his or her duties, the department chief, within thirty days from the date of death shall submit certification of the death to the Governor's office.

(b) This act includes both paid and volunteer fire, EMS and law-enforcement personnel acting in the performance of his or her duties of any fire, EMS or law-enforcement department certified by the State of West Virginia.

(c) A firefighter, EMS or law-enforcement provider is considered to be acting in the performance of his or her duties for the purposes of this act when he or she is participating in any role of a fire, EMS or law-enforcement department function. This includes training, administration meetings, fire, EMS or law-enforcement incidents, service calls, apparatus, equipment or station maintenance, fundraisers and travel to or from such functions.

(d) Travel includes riding upon or in any apparatus or vehicle which is owned or used by the fire, EMS or law-enforcement department, or any other vehicle going to or directly returning from a firefighter's home, place of business or other place where he or she shall have been prior to participating in a fire, EMS or law-enforcement department function or upon the authorization of the chief of the department, agency head or other person in charge.

(e) Certification shall include the name of the certified fire, EMS or law-enforcement program, the name of the deceased firefighter, EMS or law-enforcement provider, the name and address of the beneficiary, any documentation designating a beneficiary or beneficiaries and setting forth the circumstances that qualify the deceased individual for death benefits under this act. Upon receipt of the certification from the certified fire, EMS or law-enforcement program, the state shall, from moneys from the State Treasury, General Fund, pay to the certified fire, EMS or law-enforcement

program the sum of ~~\$50,000~~ \$100,000 in the name of the beneficiary of the death benefit. Within five days of receipt of this sum from the state, the fire, EMS or law-enforcement program certified by the state shall pay the sum as a benefit to the surviving spouse or designated beneficiary. If there is no surviving spouse or designated beneficiary, then to the minor children of the firefighter, EMS or law-enforcement provider killed in the performance of duty. When no spouse, designated beneficiary, or minor children survive, the benefit shall be paid to the parent or parents of the firefighter, EMS or law-enforcement provider. It is the responsibility of the certified fire or EMS program to document the surviving spouse or beneficiary for purposes of reporting to the Governor's office.

(f) Any death ruled by a physician to be a result of an injury sustained during any of the above mentioned performance of fire department, EMS or law-enforcement duties will be eligible for this benefit, even if this death occurs at a later time.

(g) Those individuals who are covered by this article are eligible for only one death benefit payment.

(h) Every department or agency head employing persons to which this article applies shall provide notice of the benefit provided hereby to such employees and encourage covered employees to provide a written designation of beneficiary to be maintained in the employee's personnel file.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3d. Levy for, establishment and operation of county fire prevention and rescue units; financial aid; service fees; fire protection taxing district; reporting requirements.

The county commission in any county may:

(a) levy for and may erect, maintain and operate fire stations; ~~and~~

(b) form county fire prevention and rescue units, and supply equipment therefor in the county: Provided, That if a county commission establishes a separate county fire protection and rescue unit in any city in West Virginia that is now operating under the provisions of the state civil service act for paid fire departments, then the new unit shall be operated in accordance with the provisions of the civil service act. Any such unit shall be formed and recognized under the regulations of the state fire commission for local fire departments;

(c) Any county commission may shall render reasonable financial aid to any one or more public fire protection facilities in operation in the county for the general benefit of the public in the prevention of fires.

(d) Any county commission may also authorize volunteer fire companies or paid fire departments to charge reasonable reimbursement fees for personnel and equipment used in performing fire-fighting services, victim rescue or cleanup of debris or hazardous materials by department personnel.

(1) The rate for any such fees to be charged to property owners or other persons responsible or liable for payment for such services must be approved by the county commission and must be reasonable: Provided, however, That no fee for any single incident or accident shall exceed one thousand five hundred dollars, except an incident or accident involving hazardous materials may exceed this amount based on the necessary and reasonable costs incurred.

(2) The county commission shall require that any fees charged pursuant to the authority conferred by this section must be in writing and be itemized by specific services rendered and the rate for each service.

(3) Unless exempt by law, any person, partnership, corporation or governmental agency shall be fully responsible for all charges levied by this section within thirty (30) days of the date of the response resulting in such charge. Payment to the fire department shall be in full, unless a written agreement has been reached between the fire department and the responsible party to establish a payment schedule to satisfy all charges.

(4) If payment for services rendered has not been received within ninety (90) days from the date of response, and if a payment schedule has not been established, a fire department may proceed in magistrate court or in other appropriate court action to recover from the responsible party all fees associated with the response, including attorney fees and court costs.

(e) In addition to the powers conferred by this section, county commissions may also authorize and impose a local tax within fire protection taxing districts as established and set forth in article three-e, chapter twenty-nine of this code.

(f) County commissions shall conduct a biannual county-wide assessment of their fire service protection giving consideration to contributions made to the several departments from the county, municipalities, and the political subdivisions to ensure adequate funding is provided for the services provided.

(1) This assessment shall use specific criteria for the maintaining the certain number of departments based on number of "active" membership within the department, call volume and responses of each department.

(2) The results of this assessment shall be provided to the state fire commission for its consideration of the fire protection needs of the state.

CHAPTER 8. MUNICIPAL CORPORATIONS.

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS;
CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

PART II. MUNICIPAL VOLUNTEER FIRE COMPANIES DEPARTMENTS.

§8-15-4. Power and authority to form municipal volunteer fire companies departments; recordation of statement; organization.

Any number of persons, not less than ~~twenty~~ fifteen, residing within the corporate limits of a municipality without a paid career fire department may form themselves into a ~~company~~ department for extinguishing fires therein. A writing stating the formation of such company, with the names of the members thereof subscribed thereto, shall be recorded in the office of the clerk of the county commission of the county wherein such municipality or the major portion of the territory thereof is located, after which the members of the company shall elect its officers, including a commander, and make rules and regulations for effecting its object consistent with the laws of the state and the ordinances of such municipality. A municipal volunteer fire company department shall be subject to the authority of the governing body and the regulations of the state fire commission. The fire protection district of such department shall be the corporate limits of the municipality. Such district may extend beyond such corporate limits if expressly approved by the State Fire Commission.

§8-15-5. Duties of company members; meetings to inspect equipment; report; penalty for noncompliance.

Every member of a volunteer fire company shall, upon any alarm of fire, attend, according to the ordinances of the municipality, and the company's department's rules and regulations, as well as all regulations of the state fire commission, and endeavor to extinguish the fire.

In addition to the meetings required by the ordinances of the municipality and the rules and regulations of the company, ~~semiannual meetings of the company shall be held in April and October, on such days as the commander thereof may appoint, to examine the state of the engine, hose and other equipment, practice therewith and see that the same are in good condition. Within one month after any such semiannual meeting the commander of such company shall make to the governing body a written report of the names of those attending such meeting, together with a written report of the condition of the engine, hose and other equipment. For any failure to comply with the provisions of this section, the commander shall be fined not less than ten nor more than twenty-five dollars~~ such municipal volunteer fire department shall meet or exceed the regulations

of the state fire commission for the recognition and certification of local fire departments.

§8-15-6. Dissolution of municipal volunteer fire company.

Whenever the governing body shall ascertain that such company has failed, ~~for three months successively, to consist of twenty effective members, or shall ascertain that it has failed for a like period of time to have and keep in good, serviceable condition an engine, hose or other proper equipment~~ to adhere to the ordinances of the municipality, or to satisfy regulations of the state fire commission for recognition and certification, such governing body shall declare such failure and by order dissolve the company.

Whenever a company is dissolved, the order of dissolution shall be recorded in the office of the clerk of the county court of the county wherein such municipality or the major portion of the territory thereof is located.

~~§8-15-7. Incorporation of volunteer fire companies; duties and obligations; dissolution.~~

~~In lieu of forming a company as specified in section four of this article, interested persons may cause the incorporation of a volunteer fire company as a nonstock, nonprofit corporation under the general corporation laws of this state. The corporation and the members thereof shall have all of the duties and obligations imposed upon unincorporated volunteer fire companies and the members thereof by the provisions of sections four and five of this article. The provisions of section six of this article shall be applicable to any such corporation, except that instead of entering an order of dissolution, the governing body shall enter an order directing the members of the corporation to take the necessary action under the general corporation laws of this state to bring about the dissolution of such corporation. Upon the entry of any such order, it shall be the duty of the members of such corporation to comply therewith **Repealed**.~~

§8-15-8. Support of municipal volunteer and part-volunteer fire ~~company~~ department; return of property upon dissolution.

Any municipality may contribute to the support of its municipal volunteer or part-volunteer fire ~~company~~ department by providing a firehouse, ~~fire-fighting~~ equipment, necessary paid personnel and incidental requirements to maintain such ~~company~~ department upon an efficient basis. Upon the dissolution of any such ~~company~~ department, all of the property contributed by the municipality shall become the property of and be returned to such municipality.

§8-15-8a. Eligibility for allocation from municipal pensions and protection fund and the Fire Protection Fund.

(a) In order to be eligible to receive revenues allocated from the municipal pensions and protection fund or the Fire Protection Fund, each municipal volunteer or part volunteer fire ~~company or~~ department must meet the following requirements:

(1) Submit and maintain current submission of fire loss data to the State Fire Marshal;

(2) Complete or be in the process of receiving firefighters training, including section one of the West Virginia University fire service extension or its equivalent. The fire company or department must have at least ten members certified as having completed the training or if a volunteer fire company or department has twenty or fewer members, fifty percent of the active volunteer members must have completed such training; and

(3) Comply with all applicable federal and state laws.

(b) Each municipal volunteer or part volunteer fire company or department shall have a grace period of ninety days, beyond the allocation date in which to comply with submission requirements to the State Fire Marshal. The State Fire Marshal shall notify each municipal volunteer or part volunteer fire company or department of the due date for submitting the information required by this section and the grace period by certified mailing requiring signature and a return receipt.

(c) When the records of a municipal volunteer or part volunteer fire company or department are destroyed by a fire or other natural disaster, then the affected volunteer or part volunteer fire company or department is exempt from the provisions of subdivision (1), subsection (a) of this section, for the three months period immediately following the destruction of the records.

§8-15-8b. Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

Revenues allocated to municipal volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section.

Funds received from the state for municipal volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven,

article twelve-c, all of chapter thirty-three of this code, may not be commingled with funds received from any other source. Expenditures may be made for the following:

(1) Personal protective equipment, including protective head gear, bunker coats, pants, boots, combination of bunker pants and boots, coats and gloves;

(2) Equipment for compliance with the national fire protection standard or automotive fire apparatus, NFPA-1901;

(3) Compliance with insurance service office recommendations relating to fire departments;

(4) Rescue equipment, communications equipment and ambulance equipment: Provided, That no moneys received from the municipal pensions and protection fund or the fire protection fund may be used for equipment for personal vehicles owned or operated by volunteer fire company or department members;

(5) Capital improvements reasonably required for effective and efficient fire protection service and maintenance of the capital improvements;

(6) Retirement of debts;

(7) Payment of utility bills;

(8) Payment of the cost of immunizations, including any laboratory work incident to the immunizations, for firefighters against hepatitis-b and other blood borne pathogens: Provided, That the vaccine shall be purchased through the state immunization program or from the lowest cost vendor available: Provided, however, That volunteer and part volunteer fire companies and departments shall seek to obtain no cost administration of the vaccinations through local boards of health: Provided further, That in the event any volunteer or part volunteer fire company or department is unable to obtain no cost administration of the vaccinations through a local board of health, the company or department shall seek to obtain the lowest cost available for the administration of the vaccinations from a licensed health care provider;

(9) Any filing fee required to be paid to the Legislative Auditor's Office under section fourteen, article four, chapter twelve of this code relating to sworn statements of annual expenditures submitted by volunteer or part volunteer fire companies or departments that receive state funds or grants;

(10) Property/casualty insurance premiums for protection and indemnification against loss or damage or liability;

(11) Operating expenses reasonably required in the normal course of providing effective and efficient fire protection service, which include, but are not limited to, gasoline, bank fees, postage and accounting costs;

(12) Dues paid to national, state and county associations;

(13) Workers' Compensation premiums;

(14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters; and

(15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.

§8-15-8c. Donation of equipment.

(a) Effective the first day of July, two thousand two, no person, company or other organization who donates fire control or rescue equipment, including federal excess or surplus property, to a municipal volunteer or part-volunteer fire department is subject to civil liability for any personal injury, property damages or death resulting from any defect in the equipment unless the person, company or organization acted with malice, gross negligence, recklessness or intentional misconduct which proximately caused the personal injury, property damages or death.

(b) For purposes of this section, "fire control or rescue equipment" means a vehicle, fire fighting tool, protective gear, breathing apparatus or other supply or tool used in fire fighting or fire rescue. No breathing apparatus may be donated unless, prior to the donation, it has been recertified to the manufacturer's specifications by a technician approved by the manufacturer.

(c) Unless the insured has executed a specific written rejection of such coverage in the policy, any insurer who has sold, issued or delivered an insurance policy providing liability coverage to any person, company or other organization who donates fire control or rescue equipment is barred and estopped from asserting the civil immunity granted to the insured by this section against claims or suits covered by the terms of the policy, up to the limits of the policy.

The limitation on civil liability set forth in the provisions of this section applies only to policies of insurance issued

or renewed on or after the first day of July, two thousand one.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT

§29-3-33. Volunteer and part-volunteer workers' compensation programs.

(a) The intent of this section is to provide a means of managing workers' compensation coverage for the volunteer and part-volunteer fire service of the State of West Virginia. For the purposes of this section:

(1) "Discretionary participant" means the municipal volunteer fire departments, county fire and rescue units, volunteer fire departments, part-volunteer fire departments and any local fire protection organization subject to regulation by the state fire commission and required by law to provide fire protection coverage to a geographic area of this state. Provided, That the term "discretionary participant" does not include any federal entity, state entity, any career fire department formed under article fifteen, chapter eight of this code, any industrial fire brigade, any other county entity or its instrumentality other than that defined herein, or any municipality or its instrumentality other than that defined herein.

(b) Notwithstanding any provision of this code to the contrary, the state fire commission has the responsibility for managing the workers' compensation risks of the volunteer and part-volunteer fire service and for supervising and controlling the workers' compensation programs for such entities: Provided, That any discretionary participant may participate in the program upon application to the state fire commission under the same terms and conditions as are applicable to other entities: Provided further, That a discretionary participant is, in accordance with rules governing the program, permitted to withdraw from continued participation in the program.

(c) The state fire commission may assess such fees or surcharges on participants in the program necessary to manage the workers' compensation risks of those participants. All premiums, fees and surcharges shall be established in accordance with generally acceptable actuarial standards applicable to workers compensation coverage as to each participant and as to all participants in the aggregate. The state fire commission shall establish criteria for assessments of premiums, fees and surcharges designed to provide the most cost efficient coverage for all participants.

(d) The provisions of article three, chapter five-a of this code relating to the Purchasing Division of the Department of Administration do not apply to any contract

entered into by the commissioner in furtherance of the requirements of this section: Provided, That those contracts shall be awarded on a competitive basis.

(e) (1) There is hereby established the "Volunteer Fire Protection Workers' Compensation Program Fund." All premiums, surcharges, assessments, deposits or any other moneys or funds deposited or otherwise designated or accruing to the fund as well as all earnings payable to it, shall be deposited in the State Treasury to the credit of the fund. Expenditures from the fund shall be for the purposes set forth in this section, are authorized from collections and revenues, and shall not revert to the General Fund. The fund shall be a separate and distinct fund upon the books and records of the Auditor and Treasurer, and disbursements therefrom shall be made upon requisitions signed by the State Fire Marshal.

(2) Any premiums, assessments or deposits or any other moneys or funds received for the purposes of this section shall be invested by the State Treasurer at the request of the state fire commission.

(3) The state fire commission may borrow funds as is determined necessary from the Fire Protection Fund, created in section thirty-three, article three, chapter thirty-three of this code, for the initial operations of the workers' compensation program for the fire service: Provided, That any borrowed funds shall be deposited to the credit of the Volunteer Fire Protection Workers' Compensation Program Fund: Provided, however, That these borrowed funds shall be repaid, without interest, and redeposited to the credit of the Fire Protection Fund as determined by the state fire commission.

(f) The state fire commission may promulgate emergency rules and shall propose for legislative approval legislative rules, in accordance with the provisions of article three, chapter twenty-nine-a of this code, as are necessary to provide for implementation and enforcement of the provisions of this section.

(g) The state fire commission shall submit reports on the status and progress of the program established in this section to the joint committee on government and finance quarterly and upon request, together with any other specific information on the program requested by the committee.

(h) The state fire commission shall consult with the State Board of Risk and Insurance Management to solicit any applicable experience and expertise in establishing and managing a program to provide insurance coverage to state agencies.

ARTICLE 3E. VOLUNTEER AND PART-VOLUNTEER FIRE PROTECTION SUSTAINABILITY ACT.

§29-3A-1.Legislative Findings.

(a) This article shall be called the Volunteer and Part-Volunteer Fire Protection Sustainability Act.

(b) The Legislature finds that the State of West Virginia relies heavily on the protection offered by volunteer and part-volunteer fire departments - protecting nearly 90% of the State.

(c) The Legislature further finds that the volunteer fire service structure of this state exists in a undefined and antiquated system of organization which gives little regard to existing law, community involvement, and transparency.

(d) The Legislature further finds that other states have implemented a system which permits the citizens of the community directly protected by a local department to decide the level of funding they are willing to collectively provide to this necessary public service.

(e) The Legislature further finds that immediate action is imperative in order to promote fire protection statewide; to reduce the financial burdens posed by self-funding costly equipment, subsidizing required training, as well as addressing a mounting worker's compensation debt; and to enhance the quality of life for all West Virginians.

§29-3A-1. Recognition and certification of volunteer and part-volunteer fire departments; dissolution; obligations.

In lieu of forming a company as specified in section four, article fifteen, chapter eight or this code, interested persons may cause the incorporation of a volunteer or part-volunteer fire department as a nonstock, nonprofit corporation under the general corporation laws of this state. The corporation and the members thereof shall have all of the duties and obligations imposed upon public agencies and the members thereof by the provisions of sections four and five of article fifteen, chapter eight of this code. The provisions of section six, article fifteen, chapter eight of this code shall be applicable to any such corporation, except that instead of entering an order of dissolution, the governing body shall enter an order directing the members of the corporation to take the necessary action under the general corporation laws of this state to bring about the dissolution of such corporation. Upon the entry of any such order, it shall be the duty of the members of such corporation to comply therewith. Every volunteer or part-volunteer fire department in this state shall comply with all certification regulations and policies of the state fire commission.

§29-3A-2 Directors; elections; appointments; terms; vacancies; removal; appeal.

(1) (a) When not otherwise provided by general law, every volunteer or part-volunteer fire department of this state

shall be administered by a board of directors consisting of seven (7) members, four (4) to be elected by the members of the department and three (3) to be appointed by the fire chief of the department as citizen representatives who personally reside in the fire protection district. All members of the board of directors shall have attained the age of eighteen (18).

At the first election held after the first day of July, two thousand sixteen, two (2) members shall be elected to serve on the board of directors for a period of one (1) year, and two (2) members for a period of three (3) years, and one (1) nonmember citizen representative shall be selected to serve on the board of directors for a period of two (2) years and two (2) for a period of four (4) years. On the expiration of the respective terms, the successors to each shall serve for a term of three (3) years. In the event of a vacancy in the term of an appointed or elected director, the fire chief shall appoint with the approval of the board of directors a director for the remainder of the term.

(b) An appointed director may be removed from office as provided by a majority vote of the directors after proper notice and an opportunity to be heard by a quorum of the board. Unless otherwise provided by law, an appointed or elected director trustee may be removed from office after a hearing consistent with a contested case. Cause for removal shall be due to inefficiency, neglect of duty, malfeasance, misfeasance, or conflict of interest. The hearing shall be initiated and chaired by the president of the board of directors, who shall prepare a written statement setting forth the reasons for removal. The director to be removed shall be notified of his or her proposed removal and the reasons for the proposed removal by registered mail sent to his or her last known address at least ten (10) days prior to the hearing. The director proposed to be removed may employ counsel to represent him or her. A record of the hearing shall be made by electronic or stenographic recordation.

(c) An elected director removed pursuant to this section may appeal, within ten (10) days of the rendering of the decision of the board of directors to the Circuit Court of the county in which the greater part of the district is located. The scope of the appeal shall be limited to whether the board of directors abused their discretion in removing the director.

(2) The directors shall elect from their number a president, a secretary, and a treasurer, the latter of whom shall give bond in an amount as shall be determined by the county commission in which the greater part of the fire protection district is located, conditioned upon the faithful discharge of the duties of his or her office, and the faithful accounting for all funds which may come into his or her possession as treasurer.

The premiums on the bonds shall be paid out of the funds of the department.

§29-3A-3. Board to control fire department and property; expenditures of volunteer and part-volunteer fire departments; reporting to county commission; open meetings; penalties.

(1) The board shall control the fire department or departments within their district and the property and equipment in these departments.

(2) The board may oversee the chief of the fire department and all subordinates and the number of members in the fire departments shall be determined by the board in their sole discretion. The board shall, by resolution, fix the number of all members and/or employees of the department, provide for their payment and for the payment of other expenses of the fire protection department. The board may, in their sole discretion, appoint volunteer firemen and fix, by resolution, their

compensation, if any, and provide for payment of this compensation. The board may likewise reduce the number of members and/or employees of their district so long as their action is not capricious or arbitrary.

(3) Every volunteer or part-volunteer fire department in this state shall make expenditures of all funds using the provisions of article three, section five-a of this code as a guideline where permissible.

(4) The governing body of every volunteer or part-volunteer fire department of this state shall provide an annual report to the county commission of the county in which the greater part of the fire protection district is located. This report shall contain:

(a) The names and addresses of the members of the fire department;

(b) The names and addresses of the board of directors of the fire department;

(c) A total of the emergency and non-emergency calls responded to by the department in the district;

(d) A total of the calls responded to out of the district;

(e) A general summary of all activities and responses of the department in the preceding year;

(f) A breakdown of revenue received by the department from federal, state, county, municipal, local, and other sources;

(g) A reporting of assets, expenditures, and other liabilities of the department.

(h) A copy of this report shall also be forwarded to the state fire commission for its review of the statewide fire service provided in this state.

(6) Regular meetings of the board of directors shall be held not less than every quarter to conduct the business of the department. Meetings of the board of directors shall be held in conformity with article nine-a, chapter six of this code.
(7) Failure to comply with the provisions of this section may result in decertification of the department by the state fire commission and/or dissolution of the department by the governing body in their discretion.

§29-3E-4. Powers, duties and responsibilities of board of directors of volunteer and part-volunteer fire department generally.

The board of directors of the volunteer or part-volunteer fire department may exercise all powers necessary or appropriate to carry out the purposes and duties provided in this article, including the following:

(1) Sue and be sued, plead and be impleaded and have and use a common seal.

(2) To conduct its business in the name of the volunteer or part-volunteer fire department, as the case may be.

(3) The board of directors shall promulgate rules to implement the provisions of this article and is authorized to promulgate rules for purposes of this article and the general operation and administration of fire department affairs.

(4) Adopt, and from time to time, amend and repeal bylaws necessary and proper for the conduct of its affairs consistent with this article.

(5) To promulgate such rules as may be proper and necessary to implement the purposes and duties of this article.

(6) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent or contract for the operation by any person, partnership, corporation or governmental agency, any volunteer or part-volunteer fire department related thereto.

(7) Issue negotiable bonds, notes, debentures or other evidences of indebtedness and provide for the rights of the holders thereof, incur any proper indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with exercising powers as provided herein.

(8) Make available the use or services of any fire department facilities related thereto, to any person, partnership, corporation or governmental agency consistent with this article.

(9) Acquire by gift or purchase, hold and dispose of real and personal property in the exercise of its powers and duties.

(10) Make and enter all contracts, leases and agreements and to execute all instruments necessary or incidental to the performance of its duties and powers.

(11) Employ staff, engineers, accountants, attorneys, planners and such other professional and support personnel as are necessary in its judgment to carry out the provisions of this article.

(12) Receive and accept from any source such grants, fees, real and personal property, contributions, funds of any nature as may become available to the fire department, in order to carry out the purposes of this article including but not limited to the development, operation or management of billing for services or provision of other fire prevention programs.

(13) Cooperate with and make such recommendations to local, state and federal government and the private sector in the technical, planning and public policy aspects of fire suppression or prevention as the board of directors may find appropriate and effective to carry out the purposes of this article.

(14) Charge, alter and collect rentals, fees, service charges and other charges for the use or services of any fire department facilities or any services provided by the volunteer or part-volunteer fire department.

(15) Prohibit activities in the fire protection district consistent with any fire safety order of the governor, order of the state fire marshal, or regulation of the state fire code set forth in series one, title eighty-seven, of the code of state rules.

(16) Make referrals for violations of law to the state fire marshal or the appropriate law-enforcement authorities.

(17) Do all acts necessary and proper to carry out the powers expressly granted to the authority by this article and powers conferred upon the authority by this article.

All rules promulgated by the authority pursuant to this article are exempt from the provisions of article three, chapter twenty-nine-a of this code.

§29-3A-5. Formation of fire protection taxing district; Tax levy; Expenditure of tax revenues.

(1) A fire protection taxing district may be formed according to the provisions of this section. Any volunteer or part-volunteer fire department recognized and approved by the West Virginia State Fire Commission shall have the authority to seek to form a fire protection taxing district. A fire protection taxing district shall:

(a) Be located within the territorial limits of a fire protection district approved by the West Virginia State Fire Commission;

(b) Have a continuous boundary; and

(c) Be managed by the board of directors of the volunteer or part-volunteer fire department, which may:

1. Request the imposition of an ad valorem tax on property in the district in addition to any other ad valorem tax imposed on property in the district as a whole; and

2. Expend the revenue from that additional tax on improving fire protection facilities and services for the district.

(2) Persons desiring to form a fire protection taxing district shall present a petition to the county clerk and to the County Commission. The petition shall be accompanied by a map and a metes and bounds description or other description which specifically identifies the boundaries of the proposed district. The petition shall be signed by more than ten percent (10%) of the persons who both:

(a) Are registered to vote within the proposed district; and

(b) Own property that is located within the proposed district and is subject to taxation by the district.

(3) The petition shall contain the name and address of each petitioner and the address of each petitioner's property that is located within the proposed district. It shall be in substantially the following form: "The following owners of property located within (insert the name of the fire protection district or volunteer fire department district) hereby petition the County Commission (or County Council as the case may be) to form a fire protection taxing district located at (insert a brief description of the location of the proposed district). The board of directors of (insert the name of the fire protection district or volunteer fire department district) shall have the authority to receive revenues a special ad valorem tax of (insert amount, not to exceed the maximum allowed under subsection (6) of this section) on each one hundred dollars (\$100) worth of property assessed for local taxation in the district, in order to provide sustainable fire protection for the district. This tax shall be in addition to any other ad valorem tax imposed by the State, County or local government on the district as a whole."

(4) Upon receipt of the petition, the County Commission shall hold a hearing and provide notification in the manner required for creation of a taxing district. Following the hearing, the County Commission shall set forth its written findings of fact and shall approve or disapprove the formation of the district. The creation of the district shall be of legal effect only upon the adoption of a valid ordinance. A certified copy of the ordinance creating the fire protection taxing district shall be filed with the county clerk.

(5) Without the need for hearing, the Petition shall be defeated upon the County Commission receiving an opposing Petition, signed by more than thirty percent (30%) of persons who both:

(a) Are registered to vote within the proposed district; and

(b) Own property that is located within the proposed district and is subject to taxation by the district.

(6) Upon the creation of a fire protection taxing district, the Sheriff of the County shall levy a tax, not to exceed the amount stated in the petition, on the property in the district, for the purpose of improving fire protection facilities and services in the district.

(6) The tax levied under this section, combined with any other fees for fire and emergency services levied on the entire district under, shall not exceed:

(a) Ten cents (\$0.10) per one hundred dollars (\$100) of valuation as assessed for county taxes if the fire district does not operate an emergency ambulance service; or

(b) Twenty cents (\$0.20) per one hundred dollars (\$100) of valuation as assessed for county taxes if the fire district operates an emergency ambulance service.

(c) At no time shall either of these taxes be increased so that the combined total exceeds this limit.

(7) The county clerk shall add the levy to the tax bills of the affected property owners.

For taxing purposes, the effective date of the tax levy shall be first day of July of the year following the creation and certification of the fire protection taxing district. The tax shall be administered in the same manner as the tax on the entire district.

(8) The County Commission shall not reduce the tax rate imposed on property in the district as a whole as a result of receiving extra revenue from the additional tax on property in the district. The board of directors shall expend the extra revenue solely on improving fire protection facilities and services in the district and shall not expend the extra revenue on facilities or services that are shared by the entire district.

(9) Fire district taxes shall be placed on the tax bill in a place separate from the bill of all other taxes so that ratepayers can ascertain the amount of each tax and its rate.

(10) The sheriff shall separately account to the fire district for the funds collected for each district within the fire County.

(11) Fire departments shall maintain a separate accounting of all district funds, and if there is more than one (1) subdistrict, a separate accounting for each sub district.

§29-3A-6. Annexation or reduction of territory; Expansion into territory served by other fire department; Merger of districts.

a) The territorial limits of an established fire protection taxing district, as established under this article may be enlarged or diminished in the following way: The board of directors of the volunteer or part-volunteer fire department

district shall first obtain the express written approval of the West Virginia State Fire Commission to such boundary adjustment. Upon such approval, the board of directors must timely file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication as provided for in article three, of chapter fifty-nine of this code. On the day fixed in the notice, the county commission shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the property owners of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance is filed, the clerk shall promptly give notice to the board of directors of the volunteer or part-volunteer fire department, and the county commission shall hear and determine the same. If upon such hearing, the county commission finds from the evidence that a failure to annex or strike off such territory will significantly diminish the functioning of the volunteer or part-volunteer fire department and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, he or she shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in the appropriate Circuit Court to contest the decision of the county commission.

(b) In addition to the provisions of paragraph (a) of this subsection, if the trustees of a volunteer or part-volunteer fire department district, are seeking to expand territory into an area served by a fire department created under section 9, article 15, chapter eight of this code, then the directors of the volunteer or part-volunteer fire department shall, prior to executing the provisions of paragraph (a) of this subsection, enter into a written agreement with the fire chiefs of both departments, the board of the volunteer or part-volunteer fire department, and the governing body of the paid fire department. The agreement shall establish the proposed new boundary. On the day the agreement is finalized, the board of directors of the district shall send by certified mail, return receipt requested, or have personally delivered a copy of the agreement to the county clerk of the county containing the territory subject to the expansion. The notice

required in paragraph (a) of this subsection shall, in lieu of the applicable publication requirements set out article three, chapter fifty-nine, be published at least once a week, for a minimum of two (2) weeks. The last publication shall occur no less than seven (7) days before the date fixed in the notice.

(2) The property in any territory annexed to a fire protection taxing district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the volunteer or part-volunteer fire department prior to the date of the annexation of such territory, except such indebtedness as represents the balance owing on the purchase price of firefighting

equipment. The property in any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a municipality of this State shall not be relieved of liability of such taxes as may be

necessary to pay its proportionate share of the indebtedness incurred while such property was a part of that district. Territories stricken by action of the county commission under the provisions of subsection (1) shall be relieved of liability

for all indebtedness incurred by the the volunteer or part-volunteer fire department district.

(3) The territorial limits of two (2) or more fire protection districts, may be merged into one (1) fire protection taxing district as follows:

(a) The board of directors of each fire protection district or shall first obtain the express written approval of the West Virginia State Fire Commission for such a boundary adjustment. Upon such approval, the board of directors of each fire protection district shall file a joint petition in the county clerk's office of the county in which all of the districts and the territory to be merged into one (1) district, or the greater part of the district, is located, describing the territory to be merged into the district and setting out the reasons for the merger;

(b) Notice of the filing of the petition shall be given by publication as provided article three, chapter fifty-nine of this code for public notices;

(c) On the day fixed in the notice, the county commission shall, if proper notice by publication has been given, and no written objection demonstrating good cause as to why the merger should not occur has been made, enter an order merging the fire protection taxing districts described in the petition;

(d) Fifty-one percent (51%) or more of the property owners of the territory sought to be merged into one (1) district may, at any time before the date fixed in the notice, remonstrate by written petition to the county clerk regarding their

objection to the merger of the districts. If a petition is filed, the county clerk shall give prompt notice to the boards of directors of the volunteer or part-volunteer fire departments and the county commission;

(e) The county commission shall schedule a hearing regarding the petition and shall give public notice as to the date, time, and place of the hearing. If after the hearing, the county commission finds from the evidence that a failure to merge the territory will significantly diminish the functioning of the volunteer or part-volunteer fire department districts and materially affect adversely the owners and the inhabitants of the territory sought to be merged, the county commission shall enter an order granting or denying the merger of the districts into one (1) fire protection taxing district; and

(f) Any aggrieved person may bring an action in Circuit Court to contest the decision of the county commission regarding the merger of fire protection taxing districts.

(5) The property in any fire protection district or volunteer fire department district which is merged with another fire protection taxing district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the other fire protection taxing district prior to the date of the merger into one (1) fire protection taxing district, except indebtedness which represents a balance owed on the purchase price of firefighting equipment from the other fire protection district or volunteer fire department district.

§29-3E-7. Eligibility for allocation from the Fire Protection Fund.

(a) In order to be eligible to receive revenues allocated from the Fire Protection Fund, each volunteer or part volunteer fire company or department must meet the following requirements:

(1) Submit and maintain current submission of fire loss data to the State Fire Marshal;

(2) Complete or be in the process of receiving firefighters training, including section one of the West Virginia University fire service extension or its equivalent. The fire company or department must have at least ten members certified as having completed the training or if a volunteer fire company or department has twenty or fewer members, fifty percent of the active volunteer members must have completed such training; and

(3) Comply with all applicable federal and state laws.

(b) Each volunteer or part volunteer fire company or department shall have a grace period of ninety days, beyond the allocation date in which to comply with submission requirements to the State Fire Marshal. The State Fire Marshal shall notify each volunteer or part volunteer fire company or

department of the due date for submitting the information required by this section and the grace period by certified mailing requiring signature and a return receipt.

(c) When the records of a volunteer or part volunteer fire company or department are destroyed by a fire or other natural disaster, then the affected volunteer or part volunteer fire company or department is exempt from the provisions of subdivision (1), subsection (a) of this section, for the three months period immediately following the destruction of the records. §8-15-8b. Authorized expenditures of revenues from the municipal pensions and protection fund and the fire protection fund.

(d) Revenues allocated to volunteer and part volunteer fire companies and departments may be expended only for the items listed in subdivisions (1) through (15) of this section.

(e) Funds received from the state for volunteer and part volunteer fire companies and departments, pursuant to sections fourteen-d and thirty-three, article three, and section seven, article twelve-c, all of chapter thirty-three of this code, may not be commingled with funds received from any other source. Expenditures may be made for the following:

(1) Personal protective equipment, including protective head gear, bunker coats, pants, boots, combination of bunker pants and boots, coats and gloves;

(2) Equipment for compliance with the national fire protection standard or automotive fire apparatus, NFPA-1901;

(3) Compliance with insurance service office recommendations relating to fire departments;

(4) Rescue equipment, communications equipment and ambulance equipment: Provided, That no moneys received from the municipal pensions and protection fund or the fire protection fund may be used for equipment for personal vehicles owned or operated by volunteer fire company or department members;

(5) Capital improvements reasonably required for effective and efficient fire protection service and maintenance of the capital improvements;

(6) Retirement of debts;

(7) Payment of utility bills;

(8) Payment of the cost of immunizations, including any laboratory work incident to the immunizations, for firefighters against hepatitis-b and other blood borne pathogens: Provided, That the vaccine shall be purchased through the state immunization program or from the lowest cost vendor available: Provided, however, That volunteer and part volunteer fire companies and departments shall seek to obtain no cost administration of the vaccinations through local boards of health: Provided further, That in the event any volunteer or part volunteer fire company or department is unable to obtain no cost administration of the vaccinations through a local board of health, the company or department shall seek to obtain the lowest cost available for the

administration of the vaccinations from a licensed health care provider;

(9) Any filing fee required to be paid to the Legislative Auditor's Office under section fourteen, article four, chapter twelve of this code relating to sworn statements of annual expenditures submitted by volunteer or part volunteer fire companies or departments that receive state funds or grants;

(10) Property/casualty insurance premiums for protection and indemnification against loss or damage or liability;

(11) Operating expenses reasonably required in the normal course of providing effective and efficient fire protection service, which include, but are not limited to, gasoline, bank fees, postage and accounting costs;

(12) Dues paid to national, state and county associations;

(13) Workers' Compensation premiums;

(14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters; and

(15) Educational and training supplies and fire prevention promotional materials, not to exceed \$500 per year.

§29-3E-7. Audits and financial reports.

(a) With respect to audits and financial reports, the board of directors of volunteer and part-volunteer fire departments shall follow the procedures of this section.

(b) The provisions of this section shall apply for fiscal periods ending after the first day of July, two thousand sixteen. For fiscal periods beginning on or before the first day of July, two thousand sixteen, the provisions of this section shall not apply.

(1) Volunteer and part-volunteer fire departments shall cooperate with the county government, the State Auditor, and the Legislative Auditor, to ensure an orderly transition to the reporting requirements of this section.

(2) The board of directors of each department shall annually prepare a budget and, as appropriate, shall classify budget units in the same fashion as county budgets are classified in applicable law. The state fire commission shall prepare standard budget forms for use by the board of directors and shall furnish them to county clerks for distribution. No moneys shall be expended from any funds or any sources, except in accordance with the budget which has been filed with the county clerk to be available for public inspection. No budget of a volunteer or part-volunteer fire department shall become effective until filed with the clerk of the county in which the

department is located. For those districts with multicounty jurisdictions, the district shall file a copy with the county clerk with the greater portion of its fire protection district. If the budget is not filed with the county clerk at least thirty (30) days prior to the start of the fiscal year, the county clerk shall immediately notify the county

commission as well as the state fire commission. The county commission and/or the state fire commission may then proceed with any steps necessary to prevent the expenditure of funds by the fire department until it comes into compliance.

(3) The board of directors of each volunteer or part-volunteer fire department which for the year in question receives from all sources or expends for all purposes less than two hundred fifty thousand dollars (\$250,000) shall annually prepare a financial statement, except that once every four (4) years the department's board of directors shall provide for the performance of an audit from a certified public accountant.

(4) board of directors of each volunteer or part-volunteer fire department which for the year in question receives from all sources or expends for all purposes more than two hundred thousand fifty dollars (\$250,000) shall provide for the performance of an annual audit from a certified public accountant.

(5) To provide for the performance of an audit, the board of directors of each volunteer or part-volunteer fire department shall employ an independent certified public accountant or contract with the State Auditor to perform an audit of the funds in the district budget. The audit shall conform to:

(a) Generally accepted governmental auditing standards, which means those standards for audits of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States; and

(b) Additional procedures and reporting requirements as may be required by the State Auditor. A unit of government furnishing funds directly to a volunteer or part-volunteer fire department may require additional audits at its own expense. Upon request, the State Auditor may review the final report and all related

work papers and documents of the independent certified public accountant relating to the audit. If a volunteer or part-volunteer fire department is required by law to audit its funds more often than is required by this section, it shall perform those audits and may submit them in lieu of the requirements of this section, if the audits meet the requirements of this subsection.

(6) The provisions of subsection (3) of this section shall not apply to any volunteer or part-volunteer fire department that is required by law to annually submit a financial report to an agency of state government. The districts shall annually submit a copy of their financial report to the county commission and to the state fire commission and once every four (4) years provide for the performance of an audit as provided in subsection (5) of this section.

(7) Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the volunteer or part-volunteer fire department's financial accounts.

§29-3E-8. Donation of equipment.

(a) Effective the first day of July, two thousand sixteen, no person, company or other organization who donates fire control or rescue equipment, including federal excess or surplus property, to a volunteer or part-volunteer fire department is subject to civil liability for any personal injury, property damages or death resulting from any defect in the equipment unless the person, company or organization acted with malice, gross negligence, recklessness or intentional misconduct which proximately caused the personal injury, property damages or death.

(b) For purposes of this section, "fire control or rescue equipment" means a vehicle, fire fighting tool, protective gear, breathing apparatus or other supply or tool used in fire fighting or fire rescue. No breathing apparatus may be donated unless, prior to the donation, it has been recertified to the manufacturer's specifications by a technician approved by the manufacturer.

(c) Unless the insured has executed a specific written rejection of such coverage in the policy, any insurer who has sold, issued or delivered an insurance policy providing liability coverage to any person, company or other organization who donates fire control or rescue equipment is barred and estopped from asserting the civil immunity granted to the insured by this section against claims or suits covered by the terms of the policy, up to the limits of the policy.

The limitation on civil liability set forth in the provisions of this section applies only to policies of insurance issued or renewed on or after the first day of July, two thousand sixteen.

§29-3E-9. Reserved.

§29-3E-10. Reserved.

§29-3E-11. Construction.

Being in the interest of public safety, the provisions of this article shall be liberally construed.

§29-3E-9. Severability.

If any section, subsection, subdivision, subparagraph, sentence or clause of this article is adjudged to be unconstitutional or invalid, such invalidation shall not affect the validity of the remaining portions of this article, and, to this end, the provisions of this article are hereby declared to be severable.

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments; special fund created; allocation of proceeds; effective date.

(a) (1) For the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments, as well as workers compensation coverage and training costs, ~~and certain retired teachers and the teachers retirement reserve fund,~~ there is hereby authorized and imposed on and after the ~~first day of July, one thousand nine hundred ninety-two~~ two thousand sixteen, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. ~~After the thirtieth day of June, two thousand five, the surcharge shall be imposed as specified in subdivisions (2) and (3) of this subsection.~~

~~(2) After the thirtieth day of June, two thousand five, through the thirty-first day of December, two thousand five, for the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and to provide additional revenue to the Public Employees Insurance Agency and municipal pension plans, there is hereby authorized and imposed on and after the first day of July, two thousand five, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy.~~

~~(3) After the thirty-first day of December, two thousand five, for the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any~~

~~insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to fifty-five one hundredths of one percent of the taxable premium for each such policy.~~

(4) For purposes of this section, casualty insurance may not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be subject to premium taxes, agent commissions or any other assessment against premiums.

(b) The policy surcharge shall be collected and remitted to the Commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the Commissioner on a quarterly basis on or before the twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before the first day of March of the succeeding year.

(c) Any person failing or refusing to collect and remit to the Commissioner any policy surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing is liable for a civil penalty of up to one hundred dollars for each day of delinquency, to be assessed by the Commissioner. The Commissioner may suspend the insurer, broker or risk retention group until all surcharge payments and penalties are remitted in full to the Commissioner.

(d) (1) All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge into a special account in the State Treasury, designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the months of January, April, July and October to each volunteer fire company or department on ~~an equal share basis~~ by the State Treasurer. After the thirtieth day of June, two thousand five, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

(2) (A) After the thirtieth day of June, two thousand ~~five sixteen, through the thirty-first day of December, two thousand five,~~ all money from the policy surcharge shall be collected by the Commissioner who shall disburse one half of

the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.

(B) One-fourth of the remaining portion of moneys collected shall be transferred to the special account in the State Treasury, designated as the Fire Service Training Fund.

(C) The remaining portion of moneys collected shall be transferred into the fund in the State Treasury of the ~~Public Employees Insurance Agency~~ designated as the Fire Protection Workers Compensation Fund into which are deposited the proportionate shares made by agencies of this state of the Public Employees Insurance Agency costs of those agencies, until the first day of November, two thousand five to be used consistent with the provisions of section thirty-three, article three, chapter twenty-nine of this code. After the ~~thirty-first day of October, two thousand five, through the thirty-first day of December, two thousand five,~~ the remain portion shall be transferred to the special account in the State Treasury, known as the Municipal Pensions and Protection Fund.

~~(3) After the thirty-first day of December, two thousand five, all money from the policy surcharge shall be collected by the Commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.~~

~~(4) Before each distribution date to volunteer or part-volunteer fire companies or departments, the State Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in section eight-a, article fifteen, chapter eight, and article three-e, chapter twenty-nine of this code.~~

(e) The allocation, distribution and use of revenues provided in the Fire Protection Fund are subject to the provisions of sections eight-a and eight-b, article fifteen, chapter eight, and article three-e, chapter twenty-nine of this code.

(f) The allocation, distribution and use of revenues provided in the Fire Service Training Fund shall be approved by the state fire commission. Expenditures from this fund may be made for the following:

(1) to provide reimbursement or subsidy for costs of tuition, educational materials, reasonable and necessary travel costs, or other expenditures authorized by the state fire commission

to be made to volunteer or part-volunteer fire departments subject to the provisions of article fifteen, chapter eight, and article three-e, chapter twenty-nine of this code;

(2) to provide necessary funding to approved fire service instructional agencies.

(i) "fire service instructional agencies" shall mean those organizations or entities approved as an educational provider by the state fire commission pursuant to section nine, article three, chapter twenty-nine of this code.

(ii) fire service instructional agencies may use funds disbursed under this section to support staffing, provide program delivery costs, purchase educational materials, acquire or maintain facilities, acquire or maintain equipment, acquire or maintain vehicles and mobile property, and other necessary and reasonable expenditures approved by the state fire commission.

(3) to provide required funding to the state fire marshal for fire safety training, prevention, and educational programs throughout the state.

APPENDIX B:
“Prepared Statements of the State Fire Marshal”

WEST VIRGINIA STATE FIRE MARSHAL

PREPARED STATEMENT

JOINT COMMITTEE ON FINANCE

SUBCOMMITTEE A

SCR45 - Financial Solvency of Volunteer and Part-Volunteer Fire Departments

1207 QUARRIER STREET
CHARLESTON, WV 25301

PREPARED STATEMENT

NOVEMBER 19, 2013

Good afternoon to the Members of this Joint Committee. I am Anthony Carrico and I am the Acting State Fire Marshal. I am the interim agency head of the State Fire Marshal's Office. Our office is responsible for investigating fires; conducting fire safety inspections; regulating fire departments in respect to training and equipment; conducting fire safety architectural plan review; administration of licensing and certification programs for electricians; licensing of building code officials; fire protection workers; electrical inspectors; and home inspectors; regulation of the storage and use of commercial explosives; regulation of all commercial/display fireworks; and conducting public fire safety education. The office conducted about 900 fire investigations. We issued nearly 20,000 licenses and permits to the various entities. The office conducted 4,300 life safety code inspections and reviewed approximately 1,600 plans for compliance. This effort was performed by the 53 sworn officers and staff of the agency.

I am here before this Joint Committee to express our concerns in the application of W.Va. Code §33-3-33b (formerly H.B. 103).

To begin, while I understand the magnitude of the concerns in the legislative intent of this law, it has sweeping implications to my office and to the four hundred nineteen (419) volunteer fire departments of this State.

As a point of background, my office was, to my knowledge, not consulted with by anyone from this body or the legislature. Further no fiscal note was sought from my agency for attachment to the bill – yet, one was sought from the State Auditor, the Insurance Commissioner and the Office of Miner's Health and Safety. Therefore, our response to the legislation has been reactionary to the monumental challenges imposed upon my office.

Also, as you may be aware, the legislation took effect during a time of transition in the office. State Fire Marshal Sterling Lewis retired and departed from our office on or about April 22, 2013. Since that time, I have been the acting Marshal on a temporary appointment. That appointment will not be resolved until the Legislature takes up an amendment to W.Va. Code §29-3-11 concerning the appointment procedure for the State Fire Commission. I have been assured this will take up for vote in a Special Session or during Regular Session next year. As the interim agency head, I have concerns that my vision in accomplishing the goals of this law may be different than those of the permanent agency head should I not be fortunate enough to obtain that permanent appointment.

That being said, here are my specific concerns in meeting the deadlines of this law:

- FUNDING SOURCES ASSESSMENT OF §1, 4, 5 & 6.
 - These subsections require of the State Fire Marshal to provide a comprehensive assessment of all current funding by volunteer departments.
 - Neither the State Fire Marshal nor the State Fire Commission has oversight authority to obtain financial information from fire departments. Volunteer Fire Departments are either individual corporations operating independently, or they are functioning in a volunteer status under the auspice of a municipality. The State Fire Commission merely certifies departments to have the authority to exercise the duties of a fire department in a specific area. The Commission has the power to regulate departments with regard to minimum training, minimum equipment and fire reporting requirements.
 - Departments obtain roughly \$40,000 each annually from the fund for insurance surcharges on consumer premiums. The Legislative Auditor has authority to oversee the use and administration of these funds by each department. However, this \$40,000 is not the sole funding source for most fire departments of this State. Departments may receive funding from County Commissions, from County levies, from County Fire Boards through a fire service fee, from private revenues derived from EMS or other services, from grants, and from charitable contributions. These outside funding sources are not subject to oversight by any of the State actors addressed in the law. Thus, reporting of financial conditions would be purely self-reported and likely lead to conclusion which are largely speculative in nature.

- WORKER’S COMPENSATION ANALYSIS
 - With regard to the issues addressed in analyzing Worker’s Compensation, with the help of the Insurance Commission and others, these assessments could be provided in the current timeframe.

- RECRUITMENT / RETENTION and COMPARITIVE MODELS
 - Recruitment and retention issues as well as sustainability of the current models from providing service are a nationwide issue. These same points are part of a growing trend nationally and have been evaluated by the U.S. Fire Administration and many states in analyzing the marked decline in volunteerism as well as the increasing costs of providing the necessary services.

- DECEMBER 31, 2015 DEADLINE
 - Lastly, to meet the overall goal of December 31, 2015 established in the law is impracticable. Our office simply does not have the personnel or the expertise to conduct such a study. Further, the cost of employing the assistance of a third-party consultant is simply not within our means. As a matter of comparison, when the City of Charleston contacted to an outside entity to study the efficacy of their fire department, it cost the

City \$50,000. To extrapolate that same cost to the size and scope of the tasks imposed by this law may cost as much as \$3,000,000.

I'm addressing these concerns not to win your sympathy, nor to shirk our agency's responsibilities. Rather, I am making these comments to ensure you understand the implications of this law. Simply put, we cannot currently meet the demands without significantly more time, added statutory authority and/or additional funds to satisfy the demands. I would ask that a copy of this statement and a copy of the FY 2013 report be made a part of this record.

Thank you for your time and consideration of my remarks and I will be happy to accept any questions you may have.

Sincerely,

ANTHONY W. CARRICO

STATE FIRE MARSHAL (ACTING)

Prepared Statement

November 19, 2014

Good afternoon to the members of this Joint Committee. I am Anthony Carrico and I am the State Fire Marshal. I am the agency head of the State Fire Marshal's Office. I appeared before this body exactly one year ago today to provide a status on the progress in completing the tasks imposed in W.Va. Code § 33-3-33b (formerly H.B. 103). You may recall the concerns I expressed to the Joint Committee in meeting the demands of the legislation. Nevertheless, since that time we have taken significant steps toward completing the goals of the law.

Shortly after last year's meeting, our office organized a workgroup of the essential parties in the legislation, that being myself, the Legislative Auditor, and the Commissioner of Insurance. The State Auditor's office was invited but did not attend sessions of the work group. The Chairman of the Fire Commission and our agency's General Counsel also attended and participated. Meetings of this working group were held. In sum, it was determined that a substantial preliminary step in meeting the objectives was to obtain the needed data from the fire departments of the State. A survey seeking the information was deliberately created and sent to every fire department in the State on August 8, 2014. See Attachment "A" October 31, 2014 was set as the completion date in the survey. As of today's date, approximately two hundred fifty of the completed surveys have been returned. See Attachment "B" The information will be useful to meet the requirements of the law though the data is not complete or thorough in many of the responses.

I have also enlisted the assistance of the full Fire Commission to complete this analysis. During the October 6, 2014 meeting of the Fire Commission, I informed the members of the ongoing work toward this issue. Several members of the Fire Commission volunteered their time and efforts to assist. I believe the Commission is forming a Committee to help form this comprehensive report to the Legislature.

Lastly, our office has reached out to West Virginia State University to enlist the help of undergraduate and graduate students. Discussions are continuing toward this endeavor. These students would be used to enter the data into a useable format. They would also assist in analyzing the information to provide the recommendations set forth in the law.

I thank you for your time and consideration of my remarks and I will be happy to accept any questions you may have. I would ask that a copy of this statement and a copy of supporting documentation be made a part of this record.

Sincerely,

ANTHONY W. CARRICO

STATE FIRE MARSHAL

APPENDIX C:
“Survey Questionnaire of West Virginia Fire Departments”

Survey Report Questionnaire

Prepared by: [Name]
[Title]

Address:

Phone:

Mobile phone:

E-mail:

Date:

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Other
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NOTE: Please attach additional sheets to answer any of the following questions if necessary. Again, if you have the exact information readily available, please provide the same. If, however, you do not have this information, you may provide reasonable estimates to answer the questions.

ORGANIZATION INFORMATION

Profile	
Fire Chief:	
Board President (if applicable):	
Number of Chief Officers:	
Number of Line Officers:	
Number of Active Members:	
Number of Inactive/Support/Honorary:	
Does the Department have current Bylaws and are they actively followed and enforced:	

General Information	
Type of Organization	
<input type="checkbox"/> County (Paid)	<input type="checkbox"/> Corporation/Incorporated (Paid)
<input type="checkbox"/> County (Volunteer)	<input type="checkbox"/> Corporation/Incorporated (Combination)
<input type="checkbox"/> Municipal (Paid)	<input type="checkbox"/> Corporation/Incorporation (Vol.)
<input type="checkbox"/> Municipal (Combination)	<input type="checkbox"/> Other
Number of Stations/Substations	Comments
<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> More	
Number of Engines	Comments
<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 or more	

Number of Aerial/Ladder/Quint	Comments
<input type="checkbox"/> 1+ <input type="checkbox"/> 2+ <input type="checkbox"/> 3+ <input type="checkbox"/> 4 or more	
Number of Rescues or Squads	Comments
<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 or more	

Detailed Information	
Mailing address:	
Primary Physical Address:	
Primary phone:	E-mail:
Number of all calls dispatched in 2013:	Number responded:
Structure/Vehicle Fires:	Vehicle Crashes/Technical Rescues:
Medical Calls:	Other:
Number of all members:	Number of Board members (if any):
Average age:	Avg. years of service:
	Avg. % responses:
Percentage of members holding full time employment:	Percentage of members holding part time employment:
Number of members receiving social security retirement, social security disability, workers' compensation, or other entitlement supplemental income?	
Is there any other biographical information about the department which you feel may be helpful in this assessment? If yes, please explain:	

FUNDING/INCOME SOURCES

Specific Funding Sources			
Source	Yes	Amount Received	Amount Needed
Federal Appropriations	<input type="checkbox"/>		
State Appropriations	<input type="checkbox"/>		
County Fire Fee	<input type="checkbox"/>		
County Fire Levy	<input type="checkbox"/>		
Other County Allocation	<input type="checkbox"/>		
Municipal Allocations	<input type="checkbox"/>		
Federal Grant	<input type="checkbox"/>		
Other Grant	<input type="checkbox"/>		

Unsolicited Donations	<input type="checkbox"/>		
Solicited Donations	<input type="checkbox"/>		
Fundraising Activities	<input type="checkbox"/>		
Bingo, photography or other service exchanged fundraising	<input type="checkbox"/>		
Ambulance / EMS Services	<input type="checkbox"/>		
Other	<input type="checkbox"/>		
List any comment you may have to explain the above information:			

OPERATIONAL COSTS

Current Assets	
Total checking account balance: \$	Bank:
Total savings account balance: \$	Bank:
Value of stocks and bonds: \$	
Value of real estate owned: \$	
Value of personal property/equipment: \$	
Value of vehicle(s): \$	
Other current assets: \$	
Total asset value: \$	

Current Liabilities	
Real estate mortgage loan amount: \$	Annual Cost: \$
improvement or other loan amount: \$	Annual Cost: \$
Charge accounts (include all account balances): \$	Annual Cost: \$
Vehicle loan amount(s): \$	Annual Cost: \$
Workers' Compensation Premiums: \$	Annual Cost: \$
All other liabilities (e.g. utilities, insurance, repairs, maintenance, etc.): \$	Annual Cost: \$
	Total Annually: \$

RECRUITMENT AND RETENTION

Recruitment	Retention
<input type="checkbox"/> Salaried Compensation	<input type="checkbox"/> Salaried Compensation
<input type="checkbox"/> Hourly Compensation	<input type="checkbox"/> Hourly Compensation
<input type="checkbox"/> Per-call Compensation	<input type="checkbox"/> Per-Call Compensation
<input type="checkbox"/> Gifts or other tangible items in exchange for work	<input type="checkbox"/> Gifts or other tangible items in exchange for work
<input type="checkbox"/> Other	<input type="checkbox"/> Other
Please detail attempts and costs of these programs:	

FINANCIAL AND LOSS PREVENTION ACCOUNTABILITY

Financial Accountability	
<input type="checkbox"/> Last Audit by State Legislative Auditor	Date:
<input type="checkbox"/> Last Audit by State Auditor’s Office (Municipality Only)	Date:
<input type="checkbox"/> Last Audit by other Governmental Auditor (if any)	Date:
<input type="checkbox"/> Last Audit by Independent Auditor or CPA	Date:
<input type="checkbox"/> Last In-house (uncertified) Financial Audit	Date:
<input type="checkbox"/> Findings of Audit(s). Specify:	
Financial Record Keeper	
Name:	Address:
Phone:	E-mail:
Comments:	
Risk Analysis / Loss Prevention	
Does the department have a Health, Safety or Health/Safety Officer: Y / N	Is that person responsible for only scene safety or general safety and welfare of the membership: Y / N
Who is designated as being responsible for safe practices for department:	Does the Department have a loss prevention program: Y / N

What steps could your department take to reduce injuries and losses :	
Workers' Compensation Specific Information	
Number of Workers' Compensation Claims Filed in 2013:	W/C Claims in last 10 years:
Number of 2013 claimants who did not return to work:	Number of claimants in 10 year period who did not return:
Comments:	

COMMUNITY ORIENTED BENEFITS

Community Benefits Derived	
Last ISO review date:	
ISO ratings received:	
Does the department respond to "all hazards" (e.g. fallen trees, traffic control, flooded basements, etc.):	
List examples of recent "all hazard" responses:	
If "all hazard" services were not provided, what agency or entity would:	
Does the department provide EMS response:	
Annual EMS response(s):	
Does the department provide ALS or BLS service(s):	
If these services were not provided, what agency or entity would:	
Does your department conduct fire safety inspections in the community:	
How many annually:	
Does your department conduct pre-planning of the community:	
How many annually:	
Do members of the department serve on federal, state, county, municipal or local organizations concerning emergency services or fire service functions:	
How many members serve in this capacity:	

Does your fire station(s) serve as a community center for local events:
How many annually:
Describe all other community outreach activities:

SUSTAINABILITY OF FIRE SERVICE MODEL

Short-Term/Long-Term Projection	
Last short-term assessment and plan (5 or less years):	
Made by (<i>i.e.</i> Chief, Membership, Board, etc.):	
Comments:	
Next steps:	

Last long-term assessment and plan (5 or more years):	
Made by (<i>i.e.</i> Chief, Membership, Board, etc.):	
Comments:	
Next steps:	

Recommendations for sustainability of your Department:	
--	--

Other

If you have any other comments, suggestions, or details, which you believe may be useful in providing the Legislature a full and complete understanding of the West Virginia Fire Service, please let us know:

APPENDIX D:
“Data in Regard to Louisiana State Fire Marshal’s Workers Compensation Program”

- [Original Louisiana House Bill 729/ Act 304 of 2009](#)
- [Resume Digest for HB729](#)
- [Fiscal Note - HB729 Enrolled](#)
- [Excerpt From Louisiana Revised Statutes \(La. R. S.\) 22:347:](#)

§347. Disposition of tax money

A. Monies collected under R.S. 22:342 through 349, after being first credited to the Bond Security and Redemption Fund in accordance with Article VII, Section 9(B) of the Constitution of Louisiana, shall be credited to a special fund hereby established in the state treasury and known as the "Two Percent Fire Insurance Fund" hereinafter the "fund". Monies in the fund shall be available in amounts appropriated annually by the legislature for the following purposes in the following order of priority:

(1)(a) For the state fire marshal, an amount necessary to satisfy the requirements of R.S. 40:1593, relative to the purchase of group insurance for volunteer firefighters.

(b) For the state fire marshal, an amount necessary to satisfy the requirements of R.S. 23:1036, relative to the purchase of workers' compensation insurance for volunteer firefighters.

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- [L.A.R.S 23:1036:](#)

§1036. Volunteer firefighters

A. It is hereby declared by the Legislature of Louisiana that the fire prevention and suppression services provided by volunteer fire companies are vital to the protection of the safety of the citizens of the state. This Section is intended to present the state fire marshal with a means by which he shall provide workers' compensation coverage to volunteer members of fire companies. The remedies provided herein shall constitute the exclusive remedy of the volunteer member against the fire company as provided in R.S. 23:1032.

B. The provisions of this Chapter shall apply to claims brought under this Section to the extent that such provisions do not conflict with this Section.

C.(1) The state fire marshal shall obtain workers' compensation insurance for volunteer members, as defined herein, who participate in the normal functions of the fire company. Nothing shall prohibit the state fire marshal from obtaining an insurance policy to provide coverage for a single fire company or multiple fire companies.

(2) A person covered under this Subsection is entitled to medical benefits pursuant to R.S. 23:1203, which benefits shall not be subject to a copayment, deductible, or any other method to shift the cost of compensable medical care to the injured volunteer member.

(3) Any member who is not carried on the membership list of the organization as of the date of the member's injury shall not be entitled to the benefits of this Section.

(4) The fire chief shall by written affidavit attest to the fact that the injury to the volunteer member occurred while the volunteer member was in the line of duty.

D. As used in this Section, unless the context clearly indicates otherwise, the following terms shall be given the meaning ascribed to them in this Subsection:

(1) "Fire company" means any organization established to provide fire prevention and suppression services for the general public.

(2) "Normal functions" means any response to, participation in, or departure from an incident scene, training, meetings, performance of equipment maintenance, or participation in organization functions as authorized by the chief of the fire company.

(3) Repealed by Acts 2009, No. 304, §3, July 1, 2009.

(4) "Volunteer members" means individuals who are carried on the membership list of the organization as active participants in the normal functions of the organization and who receive nominal or no remuneration for their services.

E. Medical benefits payable under this Section shall be paid within sixty days after the fire company, its insurer, or third-party administrator receives written notice thereof. If the volunteer member or his representative knows or reasonably should know that the fire company's coverage is administered or underwritten by an insurance carrier or third-party administrator, then the sixty-day payment period begins when written notice is received by the carrier or third-party administrator.

F, G. Repealed by Acts 2009, No. 304, §3, eff. July 1, 2009.

H. For injury causing death within two years after the last treatment resulting from the accident, there shall be paid reasonable expenses of burial of the volunteer member, not to exceed seven thousand five hundred dollars.

I. In addition to all other defenses available under other provisions of the Louisiana Workers' Compensation Act, a fire company may assert any of the following as defenses to a claim for benefits under this Section:

(1) The presumption under R.S. 33:2581 relating to the development of heart and lung disease during fire service shall not be available to volunteer members claiming benefits under this Section.

(2) No fire company or its insurer shall be liable for benefits under this Section for injuries occurring within the course of, or arising out of, the volunteer member's other employment.

(3) No benefits shall be payable under this Section for a volunteer member's injury during his participation in a parade or other activity unless his participation is authorized by the chief of the fire company.

J. Repealed by Acts 2009, No. 304, §3, eff. July 1, 2009.

K. Any written notice contemplated or required to be made to warrant any award of attorney fees or penalties must be received by the insurance carrier or third party administrator for the fire company when the volunteer member knows or reasonably should know that the coverage provided by the fire company under this Section is administered or underwritten by a carrier or third party administrator, notwithstanding any other provision of law.

L. A fire company shall provide upon request and within a reasonable time period documents, materials, or other information to the state fire marshal in order to effectuate the provisions of this Section.

M. The state fire marshal is authorized to promulgate rules and regulations in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., necessary to administer the provisions of this Section.

Acts 1997, No. 1047, §1, eff. July 11, 1997; Acts 1999, No. 234, §1, eff. June 11, 1999; Acts 2009, No. 304, §§2, 3, eff. July 1, 2009; Acts 2014, No. 259, §1.

- [A link to the page of the Louisiana State Fire Marshal's website which explains how the program is implemented: Louisiana Volunteer Fire Service Medical, Workmen's Comp, Death and Disability](#)



LEGISLATIVE FISCAL OFFICE

Fiscal Note

Fiscal Note On: **HB 729** HLS 09RS 1359
 Bill Text Version: **ENROLLED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: July 8, 2009	11:07 AM	Author: BILLIOT
Dept./Agy.: State Fire Marshal		Analyst: Travis McIlwain
Subject: workers' compensation benefits for volunteer firemen		

CONTINUED EXPLANATION from page one:

Below is an illustration of the projected FY 10 allocation as it appears in HB 1-original of the 2% Fire Insurance Fund.

<u>Current law allocation:</u>			<u>Proposed law allocation:</u>		
08-422	State Fire Marshal	\$528,196	08-422	State Fire Marshal	\$1,528,196
19-600	LSU Board of Supervisors	\$210,000	19-600	LSU Board of Supervisors	\$210,000
<u>20-932</u>	<u>Local allocations</u>	<u>\$16,570,000</u>	<u>20-932</u>	<u>Local allocations</u>	<u>\$15,570,000</u>
TOTAL		\$17,308,196	TOTAL		\$17,308,196

In current law, R.S. 40:1593 authorizes the state fire marshal to negotiate for and to purchase out of the 2% Fire Insurance Fund, R.S. 22:347(A) a group insurance to provide medical benefits, death benefits and burial benefits for volunteer firefighters. Although this bill does not amend Title 40, it appears this legislation will require the state fire marshal to negotiate workers' compensation policy for the projected 8,500 volunteer firefighters with the funding source being the 2% Fire Insurance Fund by amending Title 22 and Title 23.

This legislation allows the state fire marshal to be paid up to 3% of the local entities' FY 09 2% Fire Insurance Fund allocation to purchase the workers' compensation insurance policy as discussed within this bill.

APPENDIX E:

“Previously Proposed Legislation from 2012 – 2015 Pertaining to the West Virginia Fire Services”

Personalized Bill Tracking List

Firemen - 2012 Regular Session					
Bill	Title	SA(Same As)/ SI(Similar To)	Last Action	Committee Reference	Notes
SB 69	Providing certain firefighters personal income tax credit		01/11/12 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Finance	
SB 181	Requiring fire insurance premium invoices indicate additional cost due to lack of local fire service		01/13/12 - To Senate Banking and Insurance	Senate Reference 1 - Banking and Insurance	
SB 212	Creating criminal offense for disrupting communications and public utility services	SA HB 4105	04/10/12 - To House Chapter 42, Acts, Regular Session, 2012	House Reference 1 - Government Organization House Reference 2 - Judiciary Senate Reference 1 - Judiciary	
SB 213	Authorizing State Fire Commission establish volunteer firefighter training requirements	SA HB 4107	01/17/12 - To Senate Government Organization	Senate Reference 1 - Government Organization	
SB 222	Creating criminal offense for interfering with emergency service call	SI HB 4397	02/09/12 - To House House Judiciary	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary	
SB 343	Providing volunteer and part-volunteer fire departments' grace period to meet eligibility for certain funds allocation	SA HB 4114	04/10/12 - To House Chapter 132, Acts, Regular Session, 2012	Senate Reference 1 - Government Organization Senate Reference 2 - Finance	
SB 440	Reinstating certain former fire chiefs and appointing deputy chiefs		01/27/12 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	
SB 482	Reinstating certain former fire chiefs and appointing deputy chiefs		02/02/12 - To Senate Government Organization	Senate Reference 1 - Government Organization	

<u>SB</u> <u>535</u>	Strengthening WV Municipal Pensions Oversight Board's authority	<u>SA</u> <u>HB</u> <u>4489</u>	02/06/12 - To Senate Pensions	Senate Reference 1 - Pensions Senate Reference 2 - Government Organization
<u>SB</u> <u>535</u>	Relating to allocation of additional fire and casualty insurance premium tax proceeds	<u>SI</u> <u>HB</u> <u>2429</u>	02/06/12 - To Senate Banking and Insurance	Senate Reference 1 - Banking and Insurance
<u>SB</u> <u>539</u>	Relating to rebuttable presumption for firefighters' disability and death benefits for certain cancers	<u>SI</u> <u>HB</u> <u>2006</u> <u>SI</u> <u>HB</u> <u>4535</u>	02/10/12 - To Senate Judiciary	Senate Reference 1 - Judiciary
<u>SB</u> <u>537</u>	Relating to meeting and conference rights of police or fire departments' members	<u>SI</u> <u>HB</u> <u>2085</u> <u>SA</u> <u>HB</u> <u>2341</u>	02/10/12 - To Senate Labor	Senate Reference 1 - Labor Senate Reference 2 - Judiciary
<u>SB</u> <u>537</u>	Requiring installation of carbon monoxide detectors in certain public facilities	<u>SI</u> <u>HB</u> <u>4434</u>	04/10/12 - To House Chapter 22, Acts, Regular Session, 2012	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary
<u>SB</u> <u>517</u>	Increasing State Fire Commission membership		02/16/12 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Finance
<u>SB</u> <u>530</u>	Relating to charitable organizations' audit requirements		02/20/12 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary
<u>HB</u> <u>2006</u>	Providing a rebuttable presumption that a firefighter has developed a pulmonary disease or sustained a cardiovascular injury		01/11/12 - To House House Judiciary	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB</u> <u>2034</u>	Relating to the adoption of the 2008 National Electric Code		01/11/12 - To House House Government Organization	House Reference 1 - Government Organization
<u>HB</u> <u>2047</u>	Establishing a lottery scratch-off game for the benefit of West Virginia firefighters		01/11/12 - To House House Judiciary	House Reference 1 - Judiciary House Reference 2 - Finance

HB 2055	Prohibiting charitable organizations from soliciting contributions on public highways		01/11/12 - To House House Roads and Transportation	House Reference 1 - Roads and Transportation House Reference 2 - Judiciary
HB 2079	Relating to the Fire Prevention and Control Act		01/11/12 - To House House Judiciary	House Reference 1 - Judiciary
HB 2085	Providing meetings and conference rights for members of municipal fire departments		01/11/12 - To House House Political Subdivisions	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
HB 2187	Including volunteer firefighters within the Public Employees Insurance Act		01/11/12 - To House House Finance	House Reference 1 - Finance
HB 2286	Providing discounted motor registration fees for members of volunteer fire departments		01/11/12 - To House House Roads and Transportation	House Reference 1 - Roads and Transportation House Reference 2 - Finance
HB 2296	Income tax deduction for gifts to West Virginia charities		01/11/12 - To House House Finance	House Reference 1 - Finance
HB 2341	Relating to meeting and conference rights for members of police or fire departments employed by political subdivisions	SA SB 567	01/11/12 - To House House Political Subdivisions	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
HB 2473	Clarifying that fire chiefs working with paid and volunteer fire departments are employees that are provided immunity under the Governmental Tort Claims		01/11/12 - To House House Judiciary	House Reference 1 - Judiciary
HB 2494	Allowing certain vehicles for emergency response by West Virginia police reserves to use red flashing lights		01/11/12 - To House House Judiciary	House Reference 1 - Judiciary
HB 2634	Permitting members of volunteer fire departments to participate in the state's public employees insurance plan		01/11/12 - To House House Banking and Insurance	House Reference 1 - Banking and Insurance House Reference 2 - Finance
HB 2690	Reverting the 911 fee on wireless telephones from three dollars to seventy-five cents		01/11/12 - To House House Finance	House Reference 1 - Finance
HB 2727	Providing an exemption from gross income for certain members of volunteer fire departments		01/11/12 - To House House Finance	House Reference 1 - Finance

<u>HB 2751</u>	Clarifying that fire chiefs and their duly appointed officers are provided immunity under the Governmental Tort Claims and Insurance Reform Act	<u>01/11/12 - To House</u> <u>House Judiciary</u>	House Reference 1 - Judiciary
<u>HB 2894</u>	Changing surcharge on fire and casualty insurance policies to one percent and dedicating the money to volunteer and part-volunteer fire departments	<u>01/11/12 - To House</u> <u>House Banking and</u> <u>Insurance</u>	House Reference 1 - Banking and Insurance House Reference 2 - Finance
<u>HB 3002</u>	Requiring the sheriff of a county to issue, upon request, a blue flashing warning light to the prosecuting attorney	<u>01/11/12 - To House</u> <u>House Roads and</u> <u>Transportation</u>	House Reference 1 - Roads and Transportation House Reference 2 - Judiciary
<u>HB 3027</u>	Authorizing the sale of prohibited fireworks	<u>01/11/12 - To House</u> <u>House Government</u> <u>Organization</u>	House Reference 1 - Government Organization House Reference 2 - Finance
<u>HB 3056</u>	Eliminating the reporting requirement for public fire departments of <u>nonfire</u> incidents	<u>01/11/12 - To House</u> <u>House Government</u> <u>Organization</u>	House Reference 1 - Government Organization House Reference 2 - Judiciary
<u>HB 4028</u>	Authorizing the temporary suspension of certification of emergency medical service personnel without a hearing or prior notice if there is probable cause	<u>04/10/12 - To House</u> <u>Chapter 73, Acts,</u> <u>2012</u>	House Reference 1 - Health and Human Resources House Reference 2 - Judiciary Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary
<u>HB 4029</u>	Relating to training requirements of certain members of volunteer fire departments	<u>01/12/12 - To House</u> <u>House Judiciary</u>	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 4069</u>	Relating to charitable raffles	<u>02/27/12 - To House</u> <u>House Finance</u>	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 4102</u>	Relating to the regulation of fireworks	<u>07/23/12 - To House</u> <u>House Judiciary</u>	House Reference 1 - Government Organization House Reference 2 - Judiciary

<u>HB 407</u>	Relating to volunteer firefighter training	<u>SA SB 213</u>	04/10/12 - To House Chapter 79, Acts, 2012	House Reference 1 - Government Organization Senate Reference 1 - Government Organization
<u>HB 414</u>	Providing a grace period for volunteer fire companies or departments to comply with submission of data in order to meet eligibility requirements to receive allocations from municipal pensions and protection fund	<u>SA SB 343</u>	02/16/12 - To House Tabled on 2nd reading, Special Calendar 2nd Reading, Special Calendar	House Reference 1 - Pensions and Retirement House Reference 2 - Finance
<u>HB 424</u>	Making West Virginia law consistent with federal law on withholding of personal income tax on gambling winnings	<u>SA SB 410</u>	01/25/12 - To House House Finance	House Reference 1 - Finance
<u>HB 433</u>	Requiring that the building code be the state building code		02/09/12 - To House House Judiciary	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
<u>HB 437</u>	Relating to Open Governmental Proceedings		02/15/12 - To House House Judiciary	House Reference 1 - Government Organization House Reference 2 - Judiciary
<u>HB 439</u>	West Virginia Fire, EMS and Law-Enforcement Officer Survivor Benefit Act		04/10/12 - To House Chapter 181, Acts, 2012	House Reference 1 - Finance Senate Reference 1 - Judiciary Senate Reference 2 - Finance
<u>HB 440</u>	Allowing the State Fire Marshal to be appointed by the Governor		02/03/12 - To House House Government Organization	House Reference 1 - Government Organization
<u>HB 443</u>	Relating to carbon monoxide detectors	<u>SI SB 597</u>	02/06/12 - To House House Judiciary	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 444</u>	Relating to commercial mobile radio service providers		02/07/12 - To House House Government Organization	House Reference 1 - Government Organization House Reference 2 - Finance

<u>HB</u> <u>443</u>	Conveying property to a nonprofit		<u>02/21/12 - To House</u> <u>House Judiciary</u>	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
<u>HB</u> <u>443</u>	Strengthening authority of the West Virginia Municipal Pensions Oversight Board	<u>SA SB</u> <u>515</u>	<u>03/16/12 - To House</u> <u>Vetoed by Governor</u> <u>3/21/12 - Senate</u> <u>Journal</u>	House Reference 1 - Pensions and Retirement House Reference 2 - Finance Senate Reference 1 - Pensions Senate Reference 2 - Government Organization
<u>HB</u> <u>453</u>	Allowing county fire companies and departments to charge reasonable reimbursement fees		<u>02/15/12 - To House</u> <u>House Political</u> <u>Subdivisions</u>	House Reference 1 - Political Subdivisions House Reference 2 - Finance
<u>HB</u> <u>453</u>	Providing a rebuttable presumption that a volunteer firefighter has developed a pulmonary disease or sustained a cardiovascular injury for workers' compensation benefits	<u>SI SB</u> <u>559</u>	<u>02/15/12 - To House</u> <u>House Judiciary</u>	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB</u> <u>453</u>	Permitting the Lottery Commission to authorize and regulate limited charity fundraising events		<u>02/17/12 - To House</u> <u>House Judiciary</u>	House Reference 1 - Government Organization House Reference 2 - Judiciary
<u>HB</u> <u>453</u>	Exempting volunteer fire departments from the definition of "public authority" if they are constructing a facility to replace one that has been destroyed		<u>03/10/12 - To House</u> <u>On 3rd reading,</u> <u>House Calendar</u> <u>3rd Reading</u>	House Reference 1 - Judiciary
<u>HB</u> <u>459</u>	Permitting volunteer firefighters to automatically qualify for Promise Scholarships		<u>02/17/12 - To House</u> <u>House Education</u>	House Reference 1 - Education House Reference 2 - Finance

Personalized Bill Tracking List

Firemen - 2013 Regular Session					
Bill	Title	SA(Same As)/ SI(Similar To)	Last Action	Committee Reference	Notes
<u>SJR 7</u>	Proposing constitutional amendment designated Simple Majority Approval Amendment	<u>SA HJR 29</u> <u>SI HJR 30</u>	03/01/13 - To Senate Judiciary	Senate Reference 1 - Judiciary Senate Reference 2 - Finance	
<u>HJR 29</u>	The "Simple Majority Approval Amendment"	<u>SA SJR 7</u>	02/20/13 - To House House Constitutional Revision	House Reference 1 - Constitutional Revision House Reference 2 - Judiciary	
<u>SB 42</u>	Providing state income tax credit for certain firefighters		02/13/13 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Finance	
<u>SB 67</u>	Reinstating former paid fire department officers under certain circumstances	<u>SI HB 2789</u>	02/13/13 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	
<u>SB 154</u>	Relating to charitable organizations' audit requirements		02/14/13 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	
<u>SB 179</u>	Relating to meeting and conference rights of police or fire departments' members	<u>SI HB 2001</u> <u>SI HB 2380</u>	02/15/13 - To Senate Labor	Senate Reference 1 - Labor Senate Reference 2 - Judiciary	
<u>SB 251</u>	Authorizing State Fire Commission promulgate legislative rule relating to State Building Code		02/28/13 - To Senate Judiciary	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	
<u>SB 252</u>	Authorizing State Fire Commission promulgate legislative rule relating to volunteer firefighters' training, equipment and operating standards		02/28/13 - To Senate Judiciary	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	

<u>SB</u> <u>358</u>	Relating to municipal policemen and firemen pensions	<u>SA</u> <u>HB</u> <u>2896</u>	03/19/13 - To House <u>House</u> Finance	House Reference 1 - Finance Senate Reference 1 - Pensions Senate Reference 2 - Government Organization
<u>SB</u> <u>372</u>	Creating criminal offense for interfering with emergency service call		03/14/13 - To House <u>House</u> Judiciary	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary
<u>SB</u> <u>392</u>	Relating to regulation of fireworks	<u>SI</u> <u>HB</u> <u>2939</u>	02/27/13 - To Senate Judiciary	Senate Reference 1 - Judiciary
<u>SB</u> <u>456</u>	Relating to rebuttable presumption for firefighters' disability and death benefits for certain cancers		03/06/13 - To Senate Judiciary	Senate Reference 1 - Judiciary
<u>SB</u> <u>483</u>	Increasing life and casualty insurance policies surcharge to benefit fire departments	<u>SA</u> <u>HB</u> <u>2057</u>	03/26/13 - To Senate Finance	Senate Reference 1 - Banking and Insurance Senate Reference 2 - Finance
<u>SB</u> <u>509</u>	Imposing statutory liens on certain fire insurance proceeds		03/26/13 - To Senate Government Organization	Senate Reference 1 - Banking and Insurance Senate Reference 2 - Government Organization
<u>SB</u> <u>589</u>	Requiring appointment of State Fire Marshal be with advice and consent of Senate		04/01/13 - To Senate On 3rd reading 3rd Reading	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary
<u>SB</u> <u>576</u>	Transferring moneys from Unclaimed Property Trust Fund to Municipal Pensions and Protection Fund		03/25/13 - To Senate Finance	Senate Reference 1 - Pensions Senate Reference 2 - Finance
<u>SB</u> <u>582</u>	Extending time limit for payment of transfer costs to EMS Retirement System		03/25/13 - To Senate Finance	Senate Reference 1 - Pensions Senate Reference 2 - Finance

<u>HB 2001</u>	Providing meetings and conference rights for members of municipal fire departments	<u>SI SB 179</u>	02/13/13 - To House <u>House Political Subdivisions</u>	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
<u>HB 2004</u>	Exempting nonprofit organizations from paying an annual motor vehicle registration fee		02/13/13 - To House <u>House Roads and Transportation</u>	House Reference 1 - Roads and Transportation House Reference 2 - Finance
<u>HB 2043</u>	Authorizing the sale of prohibited fireworks		02/13/13 - To House <u>House Government Organization</u>	House Reference 1 - Government Organization House Reference 2 - Finance
<u>HB 2057</u>	Changing surcharge on fire and casualty insurance policies to one percent and dedicating the money to volunteer and part-volunteer fire departments	<u>SA SB 483</u>	02/13/13 - To House <u>House Finance</u>	House Reference 1 - Finance
<u>HB 2105</u>	Making it a misdemeanor to make more than three separate calls to 911 for nonemergency health concerns		02/13/13 - To House <u>House Judiciary</u>	House Reference 1 - Judiciary
<u>HB 2140</u>	Allowing certain vehicles for emergency response by West Virginia police reserves to use red flashing lights		02/13/13 - To House <u>House Judiciary</u>	House Reference 1 - Judiciary
<u>HB 2300</u>	Relating to meeting and conference rights for members of police or fire departments employed by political subdivisions	<u>SI SB 179</u>	02/13/13 - To House <u>House Political Subdivisions</u>	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
<u>HB 2302</u>	Relating to the Fire Prevention and Control Act		02/13/13 - To House <u>House Judiciary</u>	House Reference 1 - Judiciary
<u>HB 2393</u>	Making it a criminal offense for any person to intentionally interfere with or prevent an individual from calling for the assistance of emergency service personnel		03/13/13 - To House <u>House Finance</u>	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 2423</u>	Allowing county fire companies and departments to charge reasonable reimbursement fees		02/13/13 - To House <u>House Political Subdivisions</u>	House Reference 1 - Political Subdivisions House Reference 2 - Finance
<u>HB 2517</u>	Permitting volunteer firefighters to automatically qualify for Promise Scholarships		02/15/13 - To House <u>House Education</u>	House Reference 1 - Education House Reference 2 - Finance

<u>HB 2543</u>	Specifying that the subsidy provided to volunteer fire departments to offset certain workers' compensation premium increases apply to increases attributable to the <u>fire fighting</u> service		<u>03/28/13</u> - To Senate Finance	House Reference 1 - Finance Senate Reference 1 - Finance
<u>HB 2545</u>	Exempting <u>nondisciplinary</u> letters of recommendations or counseling from the definition of punitive action for municipal police officers and firefighters		<u>02/19/13</u> - To House <u>House Political Subdivisions</u>	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
<u>HB 2626</u>	Authorizing the Department of Military Affairs and Public Safety to promulgate Legislative Rules		<u>04/01/13</u> - To House On 3rd reading, House Calendar 3rd Reading	House Reference 1 - Judiciary
<u>HB 2660</u>	State Fire Commission, state building code		<u>03/26/13</u> - To House Reported in Com. Sub. for <u>H. B. 2626</u>	House Reference 1 - Government Organization House Reference 2 - Judiciary
<u>HB 2661</u>	State Fire Commission, volunteer firefighters' training, equipment and operating standards		<u>03/26/13</u> - To House Reported in Com. Sub. for <u>H. B. 2626</u>	House Reference 1 - Government Organization House Reference 2 - Judiciary
<u>HB 2724</u>	Relating to the Emergency Medical Services Act		<u>02/25/13</u> - To House <u>House Health and Human Resources</u>	House Reference 1 - Health and Human Resources House Reference 2 - Judiciary
<u>HB 2759</u>	Relating to standards for emergency medical service personnel		<u>04/01/13</u> - To House On 3rd reading, Special Calendar 3rd Reading, Special Calendar	House Reference 1 - Health and Human Resources House Reference 2 - Finance
<u>HB 2789</u>	Reinstating former fire chiefs and deputy chiefs to previously held positions in paid fire departments	<u>SL SB 67</u>	<u>03/01/13</u> - To House <u>House Political Subdivisions</u>	House Reference 1 - Political Subdivisions House Reference 2 - Government Organization
<u>HB 2890</u>	Increasing criminal penalties for violating provisions of the civil service law for paid fire departments		<u>03/18/13</u> - To House <u>House Finance</u>	House Reference 1 - Judiciary House Reference 2 - Finance

HB 2896	Relating to municipal policemen and firemen pensions	SA SB 358	03/14/13 - To House House Finance	House Reference 1 - Pensions and Retirement House Reference 2 - Finance
HB 2936	Relating to the regulation of fireworks	SI SB 392	03/22/13 - To House House Judiciary	House Reference 1 - Government Organization House Reference 2 - Judiciary
HB 2945	Relating to the distribution of state funds to volunteer fire departments		03/28/13 - To Senate Finance	House Reference 1 - Finance Senate Reference 1 - Finance
HB 2960	Relating to workers' compensation		03/18/13 - To House House Finance	House Reference 1 - Finance
HB 2964	Authorizing the mayor to appoint chiefs of police and deputy chiefs of police		04/01/13 - To House From House Calendar, 1st reading, placed on Special Calendar 1st Reading, Special Calendar	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
HB 2996	Relating to smoke detectors in one-and two-family dwellings		03/27/13 - To House House Finance	House Reference 1 - Judiciary House Reference 2 - Finance
HB 3017	Requiring the State Fire Marshal to propose rules for legislative approval to set standards for minimum acceptable fire company on-duty staffing levels		03/21/13 - To House House Government Organization	House Reference 1 - Government Organization House Reference 2 - Judiciary
HB 3127	Providing discounted motor vehicle registration fees for members of volunteer fire departments		03/25/13 - To House House Roads and Transportation	House Reference 1 - Roads and Transportation House Reference 2 - Finance

Personalized Bill Tracking List

Firemen - 2014 Regular Session					
Bill	Title	SA(Same As) SI(Similar To)	Last Action	Committee Reference	Notes
SB 20	Revising laws relating to regulation of fireworks		01/08/14 - To Senate Judiciary	Senate Reference 1 - Judiciary Senate Reference 2 - Finance	
SCR 57	Requesting Joint Committee on Government and Finance study financial solvency of volunteer and part-volunteer fire companies		02/25/14 - To Senate Referred to Rules	Senate Reference 1 - Banking and Insurance Senate Reference 2 - Rules	
SCR 71	Requesting Joint Committee on Government and Finance study State Building Code enforcement		02/27/14 - To Senate Referred to Rules	Senate Reference 1 - Government Organization Senate Reference 2 - Rules	
SB 90	Creating criminal offense for interfering or preventing call for assistance of emergency service personnel		04/14/14 - To House Chapter 34, Acts, Regular Session, 2014	House Reference 1 - Judiciary Senate Reference 1 - Judiciary	
SB 136	Authorizing Fire Commission promulgate legislative rule relating to State Fire Code		01/22/14 - To Senate Judiciary	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary	
SB 157	Authorizing Fire Commission promulgate legislative rule relating to certification of home inspectors		01/24/14 - To Senate Judiciary	Senate Reference 1 - Finance Senate Reference 2 - Judiciary	
SB 164	Authorizing State Fire Marshal promulgate legislative rule relating to certification of electrical inspectors		01/24/14 - To Senate Judiciary	Senate Reference 1 - Finance Senate Reference 2 - Judiciary	
SB 197	Authorizing Municipal Pensions Oversight Board promulgate legislative rule relating to policemen's and firemen's pensions disability calculation		02/04/14 - To Senate Judiciary	Senate Reference 1 - Pensions Senate Reference 2 - Finance Senate Reference 3 - Judiciary	

<u>SB</u> <u>240</u>	Relating to meeting and conference rights for members of municipal police or fire departments	<u>SI HB</u> <u>2001</u> <u>SI HB</u> <u>2380</u>	01/08/14 - To Senate Labor	Senate Reference 1 - Labor Senate Reference 2 - Judiciary
<u>SB</u> <u>255</u>	Increasing fire and casualty insurance policies surcharge to benefit fire departments	<u>SI HB</u> <u>4559</u>	02/18/14 - To Senate Finance	Senate Reference 1 - Banking and Insurance Senate Reference 2 - Finance
<u>SB</u> <u>319</u>	Increasing membership of State Fire Commission		01/10/14 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Finance
<u>SB</u> <u>325</u>	Providing State Fire Marshal serve at will and pleasure of Fire Commission	<u>SA HB</u> <u>4153</u>	04/14/14 - To House Chapter 68, Acts, Regular Session, 2014	House Reference 1 - Government Organization House Reference 2 - Judiciary Senate Reference 1 - Government Organization
<u>SB</u> <u>340</u>	Creating EMT-industrial certification		01/31/14 - To Senate Government Organization	Senate Reference 1 - Health and Human Resources Senate Reference 2 - Government Organization
<u>SB</u> <u>347</u>	Making supplementary appropriation of unappropriated moneys to various accounts	<u>SA HB</u> <u>4182</u>	01/14/14 - To Senate Finance	Senate Reference 1 - Finance
<u>SB</u> <u>361</u>	Relating to Office of Emergency Medical Services		01/16/14 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary
<u>SB</u> <u>378</u>	Relating to special speed limitations as to waste service vehicles		04/14/14 - To House Chapter 178, Acts, Regular Session, 2014	House Reference 1 - Judiciary Senate Reference 1 - Transportation and Infrastructure Senate Reference 2 - Judiciary
<u>SB</u> <u>389</u>	Regulating and legalizing sale of fireworks and imposing fee to benefit Veterans Program Fund	<u>SA HB</u> <u>4267</u>	01/21/14 - To Senate Judiciary	Senate Reference 1 - Judiciary Senate Reference 2 - Finance

<u>SB</u> <u>400</u>	Relating to air-ambulance service fees under PEIA		01/21/14 - To Senate Health and Human Resources	Senate Reference 1 - Health and Human Resources Senate Reference 2 - Finance
<u>SB</u> <u>508</u>	Establishing Volunteer Departments Loan Fund within Treasurer's Office		02/07/14 - To Senate Government Organization	Senate Reference 1 - Government Organization Senate Reference 2 - Finance
<u>SB</u> <u>518</u>	Relating to workers' compensation benefits for firefighters; other provisions		02/10/14 - To Senate Judiciary	Senate Reference 1 - Judiciary
<u>SB</u> <u>519</u>	Relating to workers' compensation benefits for occupational pneumoconiosis	<u>SA HB</u> <u>4607</u>	02/10/14 - To Senate Judiciary	Senate Reference 1 - Judiciary
<u>SB</u> <u>520</u>	Declaring remedial component of workers' compensation laws receive liberal construction	<u>SA HB</u> <u>4606</u>	02/10/14 - To Senate Judiciary	Senate Reference 1 - Judiciary Senate Reference 2 - Finance
<u>HB</u> <u>2269</u>	Making it a crime for preventing an individual from calling emergency service personnel		01/09/14 - To House House Judiciary	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB</u> <u>2382</u>	Relating to the Fire Prevention and Control Act		01/09/14 - To House House Judiciary	House Reference 1 - Judiciary
<u>HB</u> <u>2410</u>	Prohibiting declination, cancellation or nonrenewal of a property insurance policy if the insured does not file a claim relating to the loss or damage to insured property		01/09/14 - To House House Banking and Insurance	House Reference 1 - Banking and Insurance House Reference 2 - Judiciary
<u>HB</u> <u>2423</u>	Allowing county fire companies and departments to charge reasonable reimbursement fees		01/09/14 - To House House Political Subdivisions	House Reference 1 - Political Subdivisions House Reference 2 - Finance
<u>HB</u> <u>2517</u>	Permitting volunteer firefighters to automatically qualify for Promise Scholarships		01/09/14 - To House House Education	House Reference 1 - Education House Reference 2 - Finance
<u>HB</u> <u>2724</u>	Relating to the Emergency Medical Services Act		01/09/14 - To House House Health and Human Resources	House Reference 1 - Health and Human Resources House Reference 2 - Judiciary

HB 2936	Relating to smoke detectors in one-and two-family dwellings		01/09/14 - To House House Judiciary	House Reference 1 - Judiciary
HB 3017	Requiring the State Fire Marshal to propose rules for legislative approval to set standards for minimum acceptable fire company on-duty staffing levels		01/09/14 - To House House Government Organization	House Reference 1 - Government Organization House Reference 2 - Judiciary
HB 4011	Government Fraud Prevention Act		02/25/14 - To House House rejected (Roll No. 155)	House Reference 1 - Judiciary
HB 4067	Authorizing the Department of Military Affairs and Public Safety to promulgate legislative rules		04/10/14 - To House Chapter 110, Acts, Regular Session, 2014	House Reference 1 - Government Organization House Reference 2 - Judiciary Senate Reference 1 - Judiciary
HB 4068	Fire Commission, certification of home inspectors		02/14/14 - To House Reported in Com. Sub. for H. B. 4067	House Reference 1 - Government Organization House Reference 2 - Judiciary
HB 4069	State Fire Marshal, certification of electrical inspectors		02/14/14 - To House Reported in Com. Sub. for H. B. 4067	House Reference 1 - Government Organization House Reference 2 - Judiciary
HB 4126	Improving state emergency preparedness.	SI SB 04	01/14/14 - To House House Veterans' Affairs and Homeland Security	House Reference 1 - Veterans' Affairs and Homeland Security House Reference 2 - Finance
HB 4147	Relating to emergency preparedness	SA SB 321	04/10/14 - To House Chapter 62, Acts, Regular Session, 2014	House Reference 1 - Veterans' Affairs and Homeland Security House Reference 2 - Judiciary Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary

HB 4153	Providing that the State Fire Marshal shall serve at the will and pleasure of the fire commission	SA SB 325	01/14/14 - To House House Government Organization	House Reference 1 - Government Organization
HB 4161	Allowing State Police, police, sheriffs and fire and emergency service personnel to possess Naloxone or other approved opioid antagonist	SA SB 17 SA SB 336	01/14/14 - To House House Health and Human Resources	House Reference 1 - Health and Human Resources House Reference 2 - Judiciary
HB 4182	Supplementing, amending, increasing, decreasing, and adding items of appropriations in various accounts	SA SB 347	04/10/14 - To House Chapter 10, Acts, Regular Session, 2014	House Reference 1 - Finance Senate Reference 1 - Finance
HB 4249	Allowing proceeds of a hotel occupancy tax not exceeding \$200,000 per fiscal year to be expended for medical care and emergency services in certain counties		01/29/14 - To House House Finance	House Reference 1 - Health and Human Resources House Reference 2 - Finance
HB 4254	Providing that certain state employees may be granted a leave of absence with pay during a declared state of emergency		03/31/14 - To House Vetoed by Governor 3/31/14	House Reference 1 - Finance Senate Reference 1 - Government Organization
HB 4267	Legalizing and regulating the sale and use of fireworks and creating the West Virginia Veterans Program Fund	SA SB 389	02/27/14 - To Senate Judiciary	House Reference 1 - Judiciary House Reference 2 - Finance Senate Reference 1 - Judiciary Senate Reference 2 - Finance
HB 4312	Creating a certification for emergency medical technician-industrial		04/10/14 - To House Chapter 77, Acts, Regular Session, 2014	House Reference 1 - Industry and Labor House Reference 2 - Government Organization Senate Reference 1 - Government Organization
HB 4314	Providing a \$500 credit for certain members of volunteer fire departments against state personal income tax		01/24/14 - To House House Finance	House Reference 1 - Finance
HB 4412	Relating to special one-day licenses for charitable events to sell nonintoxicating beer or wine	SI SB 548	02/27/14 - To Senate Finance	House Reference 1 - Judiciary Senate Reference 1 - Judiciary Senate Reference 2 - Finance

<u>HB 4451</u>	Continuing the Office of Emergency Medical Services as an independent office within the Department of Military Affairs and Public Safety		<i>02/14/14 - To House House Finance</i>	House Reference 1 - Government Organization House Reference 2 - Finance
<u>HB 4460</u>	Relating to violating provisions of the civil service law for paid fire departments		<i>04/10/14 - To House Chapter 67, Acts, Regular Session, 2014</i>	House Reference 1 - Judiciary Senate Reference 1 - Judiciary
<u>HB 4466</u>	Requiring that the Legislative Auditor conduct audits of all spending units	<u>SA SB 511</u>	<i>02/11/14 - To House House Judiciary</i>	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 4539</u>	Taking back the surcharge on fire and casualty insurance policies to one percent	<u>SI SB 255</u>	<i>02/17/14 - To House House Banking and Insurance</i>	House Reference 1 - Banking and Insurance House Reference 2 - Finance
<u>HB 4930</u>	Relating to the Volunteer Fire Departments Workers' Compensation Subsidy Program and the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund		<i>02/17/14 - To House House Finance</i>	House Reference 1 - Finance
<u>HB 4904</u>	Providing discounted motor vehicle registration fees for members of volunteer fire departments		<i>02/17/14 - To House House Finance</i>	House Reference 1 - Finance

Personalized Bill Tracking List

Firemen - 2015 Regular Session

Bill	Title	SA(Same As) SI(Similar To)	Last Action	Committee Reference	Notes
SB 7	Requiring CPR and care for conscious choking instruction in public schools	SA HB 2007 SI HB 2443	04/15/15 - To House Chapter 75, Acts, Regular Session, 2015	House Reference 1 - Education House Reference 2 - Finance Senate Reference 1 - Education	
SB 9	Allowing law enforcement and emergency service personnel possess opioid antagonists	SA HB 2009 SI HB 2044 SI SB 231	01/14/15 - To Senate Health and Human Resources	Senate Reference 1 - Health and Human Resources	
SB 11	Relating to workers' compensation disbursements when injury is self-inflicted or intentional; permitting recovery in private suit	SA HB 2011	01/14/15 - To Senate Judiciary	Senate Reference 1 - Judiciary	
SB 50	Relating to workers' compensation benefits for firefighters; other provisions		01/14/15 - To Senate Banking and Insurance	Senate Reference 1 - Banking and Insurance Senate Reference 2 - Judiciary	
SB 51	Relating to workers' compensation benefits for occupational pneumoconiosis		01/14/15 - To Senate Banking and Insurance	Senate Reference 1 - Banking and Insurance Senate Reference 2 - Judiciary Senate Reference 3 - Finance	
SB 75	Legalizing and regulating sale and use of fireworks; establishing WV Veterans Program Fund		02/05/15 - To Senate Referred to Judiciary then Finance	Senate Reference 1 - Military Senate Reference 2 - Finance Senate Reference 3 - Judiciary	
SB 119	Relating to meeting and conference rights for police or fire departments	SI HB 2070	01/14/15 - To Senate Labor	Senate Reference 1 - Labor Senate Reference 2 - Judiciary	

<u>SB</u> <u>134</u>	Authorizing State Fire Commission promulgate legislative rule relating to volunteer firefighters' training, equipment and operating standards		02/18/15 - To Senate Reported in Com. Sub. for S. B. 182	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary
<u>SB</u> <u>135</u>	Authorizing State Fire Marshal promulgate legislative rule relating to fire protection work supervision		02/18/15 - To Senate Reported in Com. Sub. for S. B. 182	Senate Reference 1 - Government Organization Senate Reference 2 - Judiciary
<u>SB</u> <u>231</u>	Allowing certain law-enforcement and public safety personnel to possess and administer opioid antagonist	<u>sj HB</u> <u>2009</u> <u>sa HB</u> <u>2044</u> <u>sl SB 9</u>	01/14/15 - To Senate Health and Human Resources	Senate Reference 1 - Health and Human Resources
<u>SB</u> <u>242</u>	Creating criminal penalties for certain automated telephone calls during state of emergency or preparedness	<u>SA HB</u> <u>2117</u>	04/15/15 - To House Chapter 195, Acts, Regular Session, 2015	House Reference 1 - Judiciary Senate Reference 1 - Judiciary Senate Reference 2 - Finance
<u>SB</u> <u>254</u>	Relating to Fire, EMS and Law-Enforcement Officer Survivor Benefit Act	<u>SA HB</u> <u>2525</u>	03/03/15 - To House House Finance	House Reference 1 - Finance Senate Reference 1 - Pensions Senate Reference 2 - Finance
<u>SB</u> <u>301</u>	Modifying definition of "member" in Municipal Police and Firefighters Retirement System	<u>SA HB</u> <u>2507</u>	02/05/15 - To Senate Finance	Senate Reference 1 - Pensions Senate Reference 2 - Finance
<u>SB</u> <u>351</u>	Relating to charitable organization contribution levels requiring independent audit reports	<u>SA HB</u> <u>2716</u>	04/15/15 - To House Chapter 44, Acts, Regular Session, 2015	House Reference 1 - Finance Senate Reference 1 - Judiciary
<u>SB</u> <u>431</u>	Relating to municipal policemen's and firemen's pension and relief funds' investment		04/15/15 - To House Chapter 210, Acts, Regular Session, 2015	House Reference 1 - Pensions and Retirement House Reference 2 - Finance Senate Reference 1 - Pensions Senate Reference 2 - Finance

SB 483	Relating to municipal policemen's and firemen's pension and relief funds' trustees		04/15/15 - To House Chapter 209, Acts, Regular Session, 2015	House Reference 1 - Finance Senate Reference 1 - Pensions
SB 496	Creating Statewide Interoperable Radio Network Act	SI HB 2785 SA HB 2871 SA HB 2952	02/16/15 - To Senate Finance	Senate Reference 1 - Finance
SB 555	Continuing Office of EMS as independent office within DMAPS	SA HB 2971	02/23/15 - To Senate Government Organization	Senate Reference 1 - Government Organization
SB 571	Requiring log call sheets for 911 calls		02/23/15 - To Senate Government Organization	Senate Reference 1 - Government Organization
HB 2009	Allowing State Police, police, sheriffs and fire and emergency service personnel to possess naloxone or other approved opioid antagonist	SI SB 231 SA SB 9	01/23/15 - To House House Judiciary	House Reference 1 - Health and Human Resources House Reference 2 - Judiciary
HB 2011	Relating to disbursements from the Workers' Compensation Fund where an injury is self-inflicted or intentionally caused by the employer	SA SB 11	04/15/15 - To House Chapter 243, Acts, Regular Session, 2015	House Reference 1 - Judiciary Senate Reference 1 - Judiciary
HB 2070	Providing meetings and conference rights for members of municipal fire departments	SI SB 119	01/15/15 - To House House Political Subdivisions	House Reference 1 - Political Subdivisions House Reference 2 - Judiciary
HB 2117	Providing criminal penalties for using automated telephone calls to disseminate false, misleading or deceptive information during a proclaimed state of emergency	SA SB 242	01/20/15 - To House House Veterans' Affairs and Homeland Security	House Reference 1 - Veterans' Affairs and Homeland Security House Reference 2 - Judiciary
HB 2167	Providing a \$500 tax credit to volunteer firefighters		01/21/15 - To House House Finance	House Reference 1 - Finance
HB 2170	Including volunteer firefighters within the Public Employees Insurance Act		01/21/15 - To House House Banking and Insurance	House Reference 1 - Banking and Insurance House Reference 2 - Finance

<u>HB 2199</u>	Relating to the surcharge on fire and casualty insurance policies		01/21/15 - To House <u>House Banking and Insurance</u>	House Reference 1 - Banking and Insurance House Reference 2 - Finance
<u>HB 2225</u>	Relating to roof-mounted off-road light bar lighting devices		02/17/15 - To House <u>House Judiciary</u>	House Reference 1 - Roads and Transportation House Reference 2 - Judiciary
<u>HB 2242</u>	Requiring health insurers to reimburse ambulance service providers directly for ambulance services covered under a person's health insurance policy		01/23/15 - To House <u>House Banking and Insurance</u>	House Reference 1 - Banking and Insurance House Reference 2 - Finance
<u>HB 2292</u>	State Fire Commission to promulgate a legislative rule relating to volunteer firefighters' training, equipment and operating standards		02/09/15 - To House <u>House Judiciary</u>	House Reference 1 - Government Organization House Reference 2 - Judiciary
<u>HB 2325</u>	State Fire Marshal, legislative rule relating to supervision of fire protection work		02/09/15 - To House <u>House Judiciary</u>	House Reference 1 - Government Organization House Reference 2 - Judiciary
<u>HB 2392</u>	Improving state emergency preparedness		01/27/15 - To House <u>House Veterans' Affairs and Homeland Security</u>	House Reference 1 - Veterans' Affairs and Homeland Security House Reference 2 - Finance
<u>HB 2426</u>	Relating to the Volunteer Fire Departments Workers' Compensation Subsidy Program and the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund		01/27/15 - To House <u>House Finance</u>	House Reference 1 - Finance
<u>HB 2507</u>	Relating to membership provisions in the West Virginia Municipal Police and Firefighters Retirement System	<u>SA SB 301</u>	04/15/15 - To House Chapter 211, Acts, Regular Session, 2015	House Reference 1 - Pensions and Retirement House Reference 2 - Finance Senate Reference 1 - Pensions
<u>HB 2525</u>	Relating to the West Virginia Fire, EMS and Law-Enforcement Officer Survivor Benefit Act	<u>SA SB 254</u>	01/30/15 - To House <u>House Judiciary</u>	House Reference 1 - Judiciary House Reference 2 - Finance

<u>HB 2532</u>	Reducing federal adjusted gross income for volunteer fire department and rescue squad members	<u>SA SB 367</u>	02/02/15 - To House <u>House Finance</u>	House Reference 1 - Finance
<u>HB 2558</u>	Providing a \$500 credit against state personal income tax for certain members of volunteer fire departments		02/02/15 - To House <u>House Judiciary</u>	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 2607</u>	Relating to the violation of interfering with emergency services communications and clarifying penalties		04/15/15 - To House Chapter 76, Acts, Regular Session, 2015	House Reference 1 - Judiciary Senate Reference 1 - Judiciary
<u>HB 2646</u>	Legalizing and regulating the sale and use of fireworks	<u>SI SB 75</u>	03/14/15 - To House Conference report filed - Senate Conference	House Reference 1 - Veterans' Affairs and Homeland Security House Reference 2 - Finance Senate Reference 1 - Judiciary
<u>HB 2647</u>	Allowing an employer to extend workers' compensation insurance coverage to an employee engaged in volunteer fire fighting and allowing employers a tax credit		02/06/15 - To House <u>House Judiciary</u>	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 2648</u>	Allowing authorized entities to maintain a stock of epinephrine auto-injectors to be used for emergency		04/15/15 - To House Chapter 129, Acts, Regular Session, 2015	House Reference 1 - Health and Human Resources House Reference 2 - Judiciary Senate Reference 1 - Judiciary
<u>HB 2659</u>	Providing that paid county or municipal fire departments and duly incorporated volunteer fire departments pay reduced workers' compensation premiums when not actively engaged in fire fighting		02/09/15 - To House <u>House Finance</u>	House Reference 1 - Finance
<u>HB 2716</u>	Relating to charitable organizations	<u>SA SB 391</u>	03/14/15 - To House On 3rd reading, House Calendar 3rd Reading	House Reference 1 - Finance
<u>HB 2720</u>	Increasing the amount a person receiving a disability benefit from a municipal policemen's or firemen's pension and relief fund may earn from employment or self employment without penalty		02/13/15 - To House <u>House Pensions and Retirement</u>	House Reference 1 - Pensions and Retirement House Reference 2 - Finance

<u>HB 2752</u>	Deregulating persons who perform work on heating, ventilating and cooling systems and fire dampers		02/20/15 - To House House Judiciary	House Reference 1 - Industry and Labor House Reference 2 - Judiciary
<u>HB 2785</u>	Statewide Interoperable Radio Network Act	<u>SI SB 496</u>	02/28/15 - To House House Finance	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 2796</u>	Providing paid leave for certain state officers and employees during a declared state of emergency		03/05/15 - To Senate Finance	House Reference 1 - Judiciary Senate Reference 1 - Finance
<u>HB 2852</u>	Relating to legalizing and regulating the sale and use of fireworks		02/20/15 - To House House Judiciary	House Reference 1 - Judiciary House Reference 2 - Finance
<u>HB 2871</u>	Creating the statewide Interoperable Radio Network	<u>SA SB 496</u>	02/20/15 - To House House Government Organization	House Reference 1 - Government Organization
<u>HB 2932</u>	Relating to the distribution of wireless enhanced 911 fees		02/24/15 - To House House Finance	House Reference 1 - Finance
<u>HB 2982</u>	Relating to net metering		02/24/15 - To House House Energy	House Reference 1 - Energy House Reference 2 - Judiciary

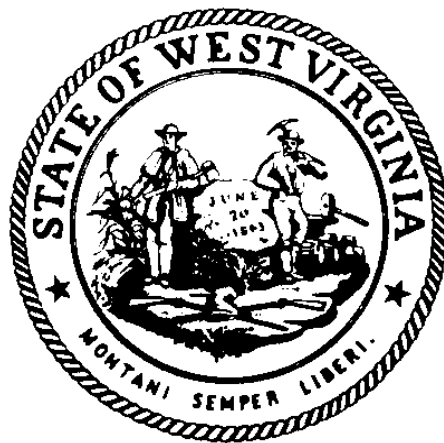
2015 Annual Reports

1. Joint Standing Committee on Education
2. Joint Standing Committee on Finance
3. Forest Management Review Commission
4. Joint Committee on Government Organization
5. Legislative Oversight Commission on Health & Human Resources Availability
6. Legislative Select Committee on Veterans' Affairs

JOINT STANDING COMMITTEE ON EDUCATION

REPORT ON ISSUES ASSIGNED FOR 2015-16 INTERIM PERIOD

January 11, 2016



JOINT STANDING COMMITTEE ON EDUCATION
MEMBERS

<u>SENATE</u>	<u>HOUSE</u>
Dave Sypolt, Chair	Amanda Pasdon, Chair (until 1/1/16)
Donna Boley, Vice Chair	Paul Espinosa, Chair (effective 1/4/16)
Robert Beach	Walter Duke, Vice Chair
Mitch Carmichael	George Ambler
Daniel Hall	Denise Campbell
Robert Karnes	Roy Cooper
William Laird	Joe Ellington
Mike Hall	David Evans
Bob Plymale	Danny Hamrick
Mike Romano	Sean Hornbuckle
Ron Stollings	John Kelly
Tom Takubo	Brian Kurcaba
Charles Trump	Dana Lynch
John Unger	Ricky Moyer
	Don Perdue
	David Perry
	Mike Pushkin
	Ralph Rodighiero
	Matthew Rohrback
	Roger Romine
	Ruth Rowan
	Joe Statler
	Patsy Trecost
	Jill Upson
	Danny Wagner

Assigned Issues

The following issues were assigned to the Joint Standing Committee on Education:

- (1) Common Core;
- (2) Charter Schools;
- (3) State funding for school bus replacement;
- (4) Expansion of outcomes of MU Luke Lee Listening, Language & Learning Lab;
- (5) Reducing State Board of Education budget, redirecting savings to teacher salary increases;
- (6) GED test for home-schooled students; and
- (7) Teacher preparation programs.

Meetings Addressing Issues Assigned to the Joint Standing Committee on Education

June 7, 2015 Joint Standing Committee on Education Meeting

- Ms. Angela Summers, West Virginian's Against Common Core, gave an update on the Common Core Issue.
- Ms. Bonnie Henthorn, Tyler County Board of Education, presented as a parent who opposes Common Core.
- Mr. Hank Hager, Chief Counsel, Senate Education, discussed various states legislation to repeal Common Core.
- Dr. Michael Martirano, State Superintendent, WVDE, gave an update on the Department's actions relating to Common Core standards. Dr. Martirano yielded time to both Clayton Burch, Chief Academic Officer, Division of Teaching and Learning and Teresa Hammond, Assistant Director, Office of Early Learning to provide further information.

September 14, 2015 Joint Standing Committee on Education Meeting

- Dr. Peg Luksik, Founder and Chair, Founded on Truth, presented a power point presentation regarding the implementation of Common Core Standards in WV.
- Dr. Amanda Ellis, Associate Commissioner of Education, and Dr. Karen Kidwell, Director of Program Standards, both representing the Office of Next Generation Learners, Kentucky Department of Education, reported on the implementation of

Common Core Standards in Kentucky.

- Dr. Michael Martirano, State Superintendent, WVDE, answered questions from the committee.
- Justin Robinson, Auditor, Post Audits Division, and Ms. Heather Hutchens, General Counsel, WVDE, were available to take questions on the Legislative Auditor's Report on the WVDE's implementation of the WV Public School Support Plan – FY 2009-FY2015.

October 18, 2015 Joint Standing Committee on Education Meeting

- Ms. Chereese Lee, Program Founder and Parent of program graduate and Dr. Jodi Cottrell, Program Director, presented a report on the Luke Lee Listening, Language and Learning Lab. Following the report both took questions from committee members and as a result introduced the committee to Miss Ella Austin, a profoundly deaf seven year old program participant who loves to dance and read.
- Mr. Bryan Jarrell, Director of Transportation, Boone County Schools; Mr. Tommy Fornash, Chief Mechanic, Harrison County Schools; and Ms. Amy Willard, Executive Director, Office of School Finance, WVDE, presented reports on altering the school bus replacement schedule in West Virginia. Following the presentations, the floor was open for questions during which time leave of the committee was granted to ask questions of Mr. Anthony Fratto, Assistant Superintendent, Harrison County Schools.
- Ms. Joetta Basile, Superintendent, Monroe County Schools; Ms. Vicki Hineman, Superintendent, Summers County Schools; Ms. Laura Sutton, General Counsel and Assistant Superintendent of Human Resources, Berkley County Schools; Mr. Todd Alexander, Assistant Superintendent of Cabell County Schools; and Ms. Deborah Smith, Manager of Professional Personnel, Cabell County Schools, presented reports on challenges to hiring and retaining teachers in West Virginia.

October 19, 2015 Joint Standing Committee on Education Meeting

- Mr. Joe Panetta, Chief Operations Officer, Division of Finance and Administration, WVDE, presented a brief overview of the Public School Support Plan.
- Ms. Amy Willard, Executive Director, Office of School Finance, WVDE, explained how personal property tax relates to the WVDE, County Boards and the PSSP.
- Dr. Ron Duerring, Superintendent, Kanawha County Schools; J.P. Mowery, Business Manager/Treasurer, Pendelton County Schools; and R. Darrin Butcher, Treasurer/CSBO, Raleigh County Board of Education, all reported on what eliminating the personal property tax would do to their respective counties.
- Ms. Willard returned to the podium and addressed HCR 140, study of public school finance, referring to a written response in the WVDE handout.

November 16, 2015 Joint Standing Committee on Education Meeting

- Mr. Eric Schnurer, President, Public Works LLC, presented on the 2012 Public Works audit of the WVDE.
- Mr. Michael Donnelley, Director of Global Outreach and Staff Attorney, Home School Legal Defense Association, presented a report on minimum age requirement for GED testing in West Virginia.
- Mr. Monty Warner, CEO of Charleston Family YMCA; Dr. Marc Clark, CEO/Founder of Richard Wright Public Charter School for Journalism and Media Arts, Washington, DC; and Ms. Susie Pierce, Principal of the Rural Community Academy in Graysville, Indiana, presented on how effective public charter schools work in various communities.

Recommendations

- Common Core - While the Committee recognizes that the State Board of Education has made changes to the Math and English/Language Arts standards, the Education committees should continue to review the standards issue and pursue legislation as appropriate. The Committee also recommends that the Education committees consider pursuing ACT assessment tests that are administered in the 3rd, 6th, 8th, and 11th grades only; are Common Core free; and are aligned with a new set of standards.
- Charter Schools - The Education committees should pursue legislation relating to authorizing public charter schools.
- State funding for school bus replacement – The Committee recommends that the statute be amended to return to the 12-year replacement cycle after this year. This would mean increasing the amount for school bus replacement next fiscal year from the \$18,000,000 cap next year to \$21,207,531.
- Expansion of outcomes of MU Luke Lee Listening, Language & Learning Lab – The Committee recommends that the Legislature pursue expanding the services offered by this program throughout the state.
- Reducing State Board of Education budget, redirecting savings to teacher salary increases – The Committee didn't look at this issue directly, and instead heard a presentation relating to the 2012 Public Works audit.
- Teacher preparation programs – The Committee recommends that the provisions of HB2005 (2015), relating to alternative certification, be in place for one more year to see if this helps to address teacher shortages.

**West Virginia Legislature
Joint Standing Committee on Finance
2015-2016 Interim Study Period**

Senate Members

*Senator Hall, Chair
Senator Walters, Vice Chair
Senator Blair
Senator Boley
Senator Boso
Senator Carmichael
Senator Facemire
Senator Kessler
Senator Laird
Senator Mullins
Senator Plymale
Senator Prezioso
Senator Stollings
Senator Sypolt
Senator Takubo
Senator Unger
Senator Yost*

House Members

*Delegate Nelson, E., Chair
Delegate Householder, Vice Chair
Delegate Boggs
Delegate Anderson
Delegate Bates
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Delegate Canterbury
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Delegate Evans, A
Delegate Frich
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Delegate Guthrie
Delegate Hamilton
Delegate Longstreth
Delegate Miller, C.
Delegate Moye
Delegate O'Neal
Delegate Pethtel
Delegate Reynolds
Delegate Storch
Delegate Walters
Delegate Waxman
Delegate Westfall*

FINAL REPORT OF

THE JOINT STANDING COMMITTEE ON FINANCE

**TO THE JOINT COMMITTEE ON GOVERNMENT AND FINANCE
January 12, 2016**

Your Joint Standing Committee on Finance was assigned the interim study of the following topics during the 2015-2016 legislative interim period:

- ***Study of racing and gaming industries***
- ***Study of increase of state government budget and spending transparency***
- ***Public library funding***

- ***Cedar Lakes funding***
- ***Reducing Instances of Unclassified Spending***
- ***Undeveloped land preservation and conservation tax credit***
- ***Highway and Bridge revenue sources***
- ***Public School Finance***
- ***Increase in Homestead Exemption***
- ***Requesting study on the collection, distribution and use of telecommunications fee revenues***
- ***Conducting a study of creating a Statewide Interoperable Radio Network***
- ***SCR 33 – Requesting study on undeveloped land preservation and conservation tax credit program***
- ***SCR 39 – Requesting study of Cedar Lakes Camp and Conference Center funding***

During the 2015 Legislative interim period, the Joint Standing Committee on Finance met when scheduled for the purpose of studying the assigned topics. Meeting dates and topics included:

June 8, 2015	Results First Initiative Update
	Report on Racing and Gaming
	Streamline Sales Tax Update
September 14, 2015	2015 Budget Update
	West Virginia Blue Ribbon Commission on Highways Final
	Report and Perspectives on State Road Fund Budget and
	Revenue

Division of Highways Audit Update

October 19, 2015

Public School Finance

State and Local Taxation and the Public Education System

Greyhound Racing Subsidies

Division of Highways Audit Update

November 15, 2015

SCR33 Undeveloped Land Preservation and Conservation

Tax Credit Program

SCR39 Cedar Lakes Camp and Conference Center- Review

Current Status of Proposal to Divest State Board of

Education of the Camp and Center

Update on Division of Highways Audit

wvOASIS Update

The committee received information and sought participation from the following state agencies, political subdivisions and other sources: West Virginia Department of Revenue; State Budget Office; West Virginia Blue Ribbon Commission on Highways; West Virginia State Board of Education and various county boards of education; West Virginia Department of Education; West Virginia Lottery Commission; Spectrum Gaming Group; WV Greyhound Owners and Breeders Association; WV Kennel Owners Association; WV Land Trust; Cedar Lakes Conference Center; Pew Charitable Trust and MacArthur Foundation; WV Oasis; and Legislative staff.

Based on the testimony of all of the above, but mostly based on the current revenue shortfalls and associated budget cuts, the committee finds that in a year in which budget cuts are required, it is not prudent to recommend any increases from general revenue to subsidize or fund racing and gaming industries, public libraries or conference centers or public schools. Likewise, it is not prudent to authorize additional tax credits. The committee also finds that implementation of WVOasis has improved transparency in government budget and spending. The committee further finds that any of the topics assigned for study may be further examined during the upcoming Regular Session if warranted by the Legislature.

Your Committee reports that in addition to the foregoing assigned matters, presentations have been received from the Secretary of the Department of Revenue and its State Budget Office regarding the financial status of the State at the close of Fiscal Year 2016 and an outlook for Fiscal Year 2017 and from the Streamlined Sales and Use Tax Governing Board.

Respectfully Submitted,

Senator Mike Hall
Co-Chairman

Delegate Eric Nelson, Jr.
Co-Chairman

West Virginia Legislature
Forest Management Review Commission

Senate Members

Senator David Sypolt, Co-Chair
Senator Daniel Hall
Senator Robert Karnes
Senator Ron Miller
Senator Bob Williams

House Members

Delegate John Overington, Co-Chair
Delegate Allen Evans
Delegate Bill Hartman
Delegate Dana Lynch
Delegate William R. Romine

Citizen Members

Robert Alexander
Richard Bowlby
Betty D. Crookshanks
Thomas Hawse, III
Lannes C. Williamson

The West Virginia Legislature's Forest Management Review Commission, having been appointed pursuant to Article 24, Chapter 5 of the Code of West Virginia, met on several occasions during the 2015-2016 Legislative Interim period to receive testimony and information to accomplish the duties and responsibilities as established by code.

The Forest Management Review Commission invited the following individuals to appear before the commission to offer their expertise and testimony:

Mr. Roger Sherman, Mead-Westvaco Corporation

Mr. Sherman appeared before the commission to discuss and provide insight into the West Virginia timber severance tax.

Mr. Randy Dye, State Forester, West Virginia Division of Forestry

Mr. Dye came before the commission several times to give updates on the Division of Forestry, and provide an explanation of the Forest Health Program's attempts at controlling various invasive species.

Mr. Chris Zinkhan, CEO, the Forestland Group

Mr. Zinkhan gave a power point presentation on institutional timberland investments and management in West Virginia.

Ms. Lavonne Paden, Director, West Virginia Agricultural Land Protection Authority

Ms. Paden provided information on West Virginia's forestry policy as it relates to farmland.

Mr. Mark Morton, General Counsel, West Virginia State Tax Department

Mr. Morton appeared before the commission to discuss the West Virginia timber severance tax.

**Mr. Eric Ewing, Director, Plant Industries, West Virginia Department of Agriculture; and
Mr. Butch Sayers, Assistant Director, Department of Agriculture**

Mr. Ewing and Mr. Sayers appeared jointly to present the Forest Health Protection Programs and the Department of Agriculture's role in forestry.

Mr. Dean Alanko, Vice President of Sales and Marketing, Allegheny Wood Products

Mr. Alanko was asked to present information regarding the West Virginia forest products industry and its current economic status.

Mr. Michael Caryl, Attorney, Bowles Rice

Mr. Caryl appeared before the commission to present information regarding taxation issues in the forest industry.

Ms. Linda Carnell, Program Specialist, West Virginia Division of Forestry


Ms. Carnell was invited before the commission to speak about conservation and forestry education.

Mr. Nathan Taylor, Coordinator for Agriculture and Natural Resources Curriculum, West Virginia Department of Education

Mr. Taylor appeared before the commission to give an overview of Forestry career technical education opportunities and programs.

The Forest Management Review Commission considered and recommended this report be presented to the Joint Committee on Government and Finance.

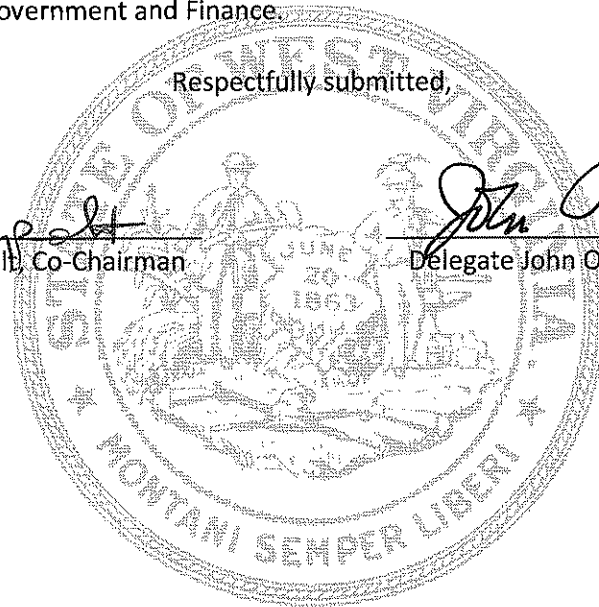
Respectfully submitted,



Senator David Sypolt, Co-Chairman



Delegate John Overington, Co-Chairman





WEST VIRGINIA LEGISLATURE
JOINT COMMITTEE ON GOVERNMENT ORGANIZATION
STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25305

Joint Committee on Government Organization

Interim Report to the Joint Committee on Government and Finance

January 12, 2016

Dear Mr. Speaker and Mr. President,

Your Joint Committee on Government Organization was assigned the following study topics during the 2015-2016 interim period:

Applicability and reform of purchasing regulations;

Impact of admitting all Class I, II, III and IV municipalities to the Municipal Home Rule Pilot Program;

Public access to all ordinances, rules and regulations adopted by a county commission in one location;

Making all hunting and fishing licenses valid for a period of one year from date of issue;

Reducing or eliminating the need for certain hunting, fishing, and trapping licenses;

Agreements between county commissions and municipalities regarding demolition of buildings unfit for human habitation;

Audits of State Government agencies; and

North Carolina State Board of Dental Examiners v. FTC, impact on Chapter 30 Boards.

The committee met throughout the interim period and heard presentations on each study topic assigned to it. All handouts and information contained in the minutes for the meetings are on file in the offices of the House and Senate Government Organization Committees.

The committee recommends the following attached legislation be introduced and

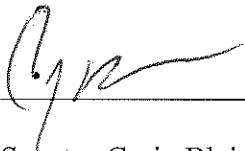
recommended for passage during the 2016 Regular Session for the following topics:

Making all hunting and fishing licenses valid for a period of one year from date of issue; and


Public access to all ordinances, rules and regulations adopted by a county commission in one location.

For the study topics with no recommended legislation the committee will continue to follow the issues throughout the Regular Session.

Respectfully Submitted,



Senator Craig Blair, Co-Chair



Delegate Gary G. Howell, Co-Chair

WEST VIRGINIA LEGISLATURE

**LEGISLATIVE OVERSIGHT COMMISSION ON HEALTH AND HUMAN RESOURCES
ACCOUNTABILITY**

2015- 2016 Interims

SENATE MEMBERS

**Senator Ryan J. Ferns, Chair
Senator Ed Gaunch
Senator Tom Takubo
Senator Charles S. Trump, IV
Senator Roman W. Prezioso
Senator Ron Stollings
Senator Jack Yost**

HOUSE MEMBERS

**Delegate Joe Ellington, Chair
Delegate Anna Border-Sheppard
Delegate Eric L. Householder
Delegate Matthew Rohrbach
Delegate Amy Summers
Delegate Rick Moye**

Ex Officio Members

Senator (President) William P. Cole, III

Delegate (Speaker) Tim Armstead

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 2015 Regular Session of the 82nd Legislature.

During the 2015-2016 interim period the Legislative Oversight Commission on Health and Human Resources Accountability (hereinafter the Commission) met and received information on various topics of study and other important healthcare and human services issues from state agencies, political subdivisions, advocacy groups and other pertinent sources. The Commission studied six topics during the 2015-2016 interim period. These topics were:

HCR. 143. Requesting the Joint Committee on Government and Finance, to study the public-private partnership model for the operation and maintenance of all or some of the State's hospital and nursing facilities.

HCR. 138. Requesting the Joint Committee on Government and Finance to study and review the managed care system within the Bureau for Medical Services.

HCR. 135. Requesting the Joint Committee on Government and Finance to study state hospitals in regards to the Hartley Case.

Study of school based Medicaid programs.

Drug testing for welfare recipients and/or for teens obtaining a driver's license.

Structure and Authority of the Department of Health and Human Resources.

The Commission Reports as follows:

ASSIGNED STUDY TOPICS

HCR. 143. Requesting the Joint Committee on Government and Finance, to study the public-private partnership model for the operation and maintenance of all or some of the State's hospital and nursing facilities.

The Commission felt that the issue of privatization of state run hospitals and nursing facilities was a complex issue and required intensive and specialized study. Consequently a request was sent to Arnett, Carbiss and Toothman to gain some insight into what such a study would entail and the estimated cost to conduct such a study. They replied and indicated the items they would need to conduct the study, the scope of their work which would include an Operational and Clinical Assessment and a Business Valuation Process and a breakdown of their costs. The cost ranged from \$35,000 to \$40,000 per facility for a total cost of approximately \$183,000. Due to the cost it was decided not to pursue an outside study. A copy of that letters is attached to this report.

Following the receipt of this correspondence, a series of internal meetings occurred with staff from the House and Senate Health and Human Resources Committees, the House and Senate Finance Committees and the Department of Health and Human Resources. The meetings are ongoing. A number of issues have been discussed ranging from a total sale, a sale of the just the beds, a sale of the physical plant and the real estate and a number of combinations of all of these.

The Commission **RECOMMENDS** that no action be taken on this issue at this time. The Commission encourages the continued involvement of all the aforementioned parties and would like at some point to have a presentation to the Commission of the actions of this group. Potentially, the Commission would like a draft plan – including any necessary legislation – to begin the process of privatization of all state hospitals and nursing facilities.

HCR. 138. Requesting the Joint Committee on Government and Finance to study and review the managed care system within the Bureau for Medical Services.

In anticipation of a presentation regarding Managed Care, the Co-Chairs sent an e-mail to Acting Commissioner of the Bureau for Medical Services, Cindy Beane. That e-mail contained a series of questions which the Co-Chairs wanted covered during any presentation to the Commission. Here is a list of the questions posed by the Co-Chairs:

1. What is managed care?
2. How many companies participate in managed care?
3. How many providers?
4. How many West Virginians are enrolled in managed care plans?
5. How much does West Virginia spend on managed care?
6. What is the current MLR of each company?
7. How is quality health care affected by managed care?
8. How is consumer access to care assured and monitored under managed care?
9. Do consumers have appeal rights if services are denied by a plan?
10. Discussion on the changes in the current managed care contract?

Final Report
Page 4

The Co-chairs would also asked the Secretary to specifically address her vision for managed care with an emphasis on the following questions.

1. The changes which have occurred since she took over?
2. The changes in the managed care contract?
3. Which populations are being added to managed care and her proposed timeline?
4. Anything else the Secretary would like to address concerning managed care.

During September Interims, the Commission heard from Jeremiah Samples, Deputy Secretary of the Department of Health and Human Resources (hereinafter the Department) regarding Managed Care. Mr. Samples provided the Commission with a comprehensive overview of managed care issues. He discussed the health of West Virginia's citizens relative to risk factors, behavioral health, and factors that fold into health outcomes. Additionally, he provided the Commission with an overview of the Department's budget and specifically the budget of the Bureau for Medical Services (hereinafter Medicaid). This included information regarding:

1. West Virginia's rank in terms of spending (12th) and health outcomes (44th);
2. Funding Sources for Medicaid; and,
3. Medicaid cost for the past three years.

His presentation also provided answers to all of the questions presented by the Co-Chairs prior to the meeting.

Various interest groups also provided the Commission with valuable information regarding specific topics relative to managed care; most notably pharmacy care. Additionally, the Co-Chairs were kept abreast of the ongoing litigation regarding the bidding process and the awarding of the managed care contracts to provide services to the Medicaid population. That lawsuit has now been settled.

The Commission **RECOMMENDS** that they continue to monitor managed care as it relates to the Medicaid population as part of their ongoing oversight of the Department pursuant to the provisions of Article 29-E of Chapter 16 of the West Virginia Code. Specifically as contracts are required to be subject to state purchasing requirements, the Commission will be particularly concerned with costs expenditures and cost savings.

HCR. 135. Requesting the Joint Committee on Government and Finance to study state hospitals in regards to the Hartley Case.

To gain some insight into the ongoing litigation on the E.H. v. Matin case, often referred to as the “Hartley” case, the Co-Chairs requested an update from the Department on the current posture of the case. Correspondence was received from Karen Villanueva Matkovich, General Counsel at the Department, dated June 5, 2015. That correspondence provided the Commission with a procedural history of the case from its filing in 1981 to its current status.

The case initially sought a Writ of Mandamus in the West Virginia Supreme Court to alleviate what then Justice Richard Neely referred to as “Dickensian Squalor of unconscionable magnitudes” in the state rule mental facilities. Following the mandamus action, the case continued in the Kanawha County Circuit Court. The litigation remains ongoing.

The litigation has resulted in a number of decisions impacting not only the physical condition of the state run hospitals but also resulted in 1983 in a 330 page report setting forth a “Behavioral Health System Plan”. Litigation has continued over the years resulting from such issues as a failed attempt in the early 1990’s to construct a new state hospital, the appointment of a court monitor to oversee implementation of the courts orders, overcrowding of patients of the state operated facilities and the salaries of employees at the state run hospitals.

The Commission **RECOMMENDS** continued oversight of the actions of the Department and the Court in the Hartley decision. No further Legislative action is necessary at this time.

Study of school based Medicaid programs.

To address this issue a request was made to the Department for an update on the level of services provided in a school based setting. The Commission received a copy of a letter from the Department to Senate President Cole dated April 13, 2015. This letter contained detail relating to West Virginia's school based health initiatives and was accompanied by extensive attachments detailing Medicaid's involvement in providing school based health care services.

The letter offered some detail on the level of services which the West Virginia Medicaid program covered in our schools, particularly with respect to special needs students. It discussed a State Plan Amendment submitted in 2000 that provided for school based health services throughout the state. The letter also went into detail about a potential \$23,000,000 disallowance which could have potentially resulted in an overpayment by the Federal Government to West Virginia. Following an appeal the West Virginia expenditures were upheld and no repayment was necessary.

Finally, the letter indicated the Department continues to work with the Department of Education in providing effective school based health services within the confines of the State Plan Amendment and the direction provided by the Centers for Medicare and Medicaid Services. A copy of that letter is attached to this report.

The Commission **RECOMMENDS** that no additional action be taken on this measure but that in its continued oversight of the Department through the provisions of Article 29-E of Chapter 16 of the West Virginia Code that the Commission continue to monitor the provisions of school based health care offered by the Medicaid program.

Drug testing for welfare recipients and/or for teens obtaining a driver's license.

The Commission began its work this interim period with an overview of drug testing of public assistance recipients. To gain a national perspective and learn from the lessons of other states, the Commission reached out to the National Conference of State Legislatures (NCSL). Rochelle Finzel, Group Director of NCSL conducted a video conference with the Commission. She discussed the federal authority which allows states to implement drug testing programs. In addition she gave the Commission a perspective on current trends which states are employing as they consider drug testing of public assistance applicants. Ms. Finzel also provide insight on lessons learned by states and

provided the Commission with some considerations they may want to take into account in their deliberations.

Prior to the October meeting of the Commission, the Co-Chairs requested state specific data from the Department. Correspondence was sent to the Department asking that they address four (4) questions. Nancy Exline, Commissioner for Children and Families along with Kathy Paxton, Substance Abuse Specialist from the Bureau for Behavioral Health and Health Facilities and Anne Williams, Deputy Commissioner from the Bureau for Public Health provided the Department's response.

These questions and the Department's response were as follows:

1. Anticipated costs to do a targeted type of enforcement on specific populations such as persons with a criminal history or persons with prior drug convictions utilizing the most cost efficient drug test available.

Response: The cost for a drug test is \$56.50 per test. At this time, the anticipated costs are unknown for the criminal background check as the department does not conduct a background check on individuals applying for assistance. This particular drug test is a urine drug test that screens for various substances that the Bureau for Children and Families currently utilizes in child protective services cases.

2. How many individuals does the DHHR anticipate having an adverse event from this type testing based upon our population, the percentage of our population which is drug addicted and the percentage of our population on TANF.

Response: The anticipated adverse event is unknown at this time. The Department does not have statistics on the percentage of our population which is drug addicted. We do know the national use of illicit drugs is 8.3%. National Survey on Drug Use and Health, November 28, 2014.

The Department records indicate TANF caseload for 2015 is 7,936.

- # of individuals receiving TANF – 13,980 adults and children/ 2697 adults
- 1,852,994 population of WV
- Percent of population on TANF - .00145%

3. What is the impact on pregnant women who abuse illicit drugs while pregnant and who give birth to children who are either suffering from withdraw or have

babies who test positive for some type of illicit substance. How many women have tested positive for an illicit substance while pregnant? How many children have tested positive for an illicit substance after birth? How many pregnant women receive TANF?

Response: The Department does not have the information on the impact on pregnant women who abuse illicit drugs while pregnant and who give birth to children who are either suffering from withdrawal or have babies who test positive for some type of illicit substance.

DHHR is unaware of the number of women who have tested positive for illicit drugs while pregnant and is unaware of the number of children who have tested positive for illicit substances at birth. Further, DHHR does not keep data on the number of pregnant women who receive TANF. However, DHHR began tracking child protective services referrals involving illicit drug affected infants in August 2014. From August 1, 2014 to July 31, 2015 there were 161 illicit drug affected infant referrals.

The Bureau for Public Health's Office of Maternal, Child and Family Health does not collect data on the number of women who test positive for an illicit substance while pregnant, or the number of children who have tested positive for an illicit substance after birth. The Office of Maternal, Child and Family Health is aware that some hospitals do test mothers and infants, but is unaware of a central repository for that data.

4. Are there other options available beyond drug testing that might prove effective in curbing drug abuse in the public assistance population?

Continue to follow the recommendations of the Governor's Advisory Council on Substances Abuse Strategic Goals.

Goal 1: Implement an integrated approach for the collection, Assessment and Planning analysis, interpretation and use of data to inform planning, allocation and monitoring of the West Virginia substance abuse service delivery system.

Goal 2: Build the capacity and competency of West Virginia's Capacity Substance Abuse Workforce and other stakeholders to effectively plan, implement and sustain comprehensive, culturally relevant services.

Goal 3: Increase access to effective substance abuse prevention, implementation of early identification, treatment and recovery management that is high quality and person-centered.

Goal 4: Manage resources effectively by promoting good sustainability stewardship and further development of the West Virginia substance abuse service delivery.

Options available beyond drug testing that might prove effective in curbing drug abuse in the public assistance population

Risk Associated with the Population	Option
Ability to pay for behavioral health care	<ol style="list-style-type: none"> 1. Medicaid Expansion 2. Medicaid Coverage expansion for behavioral health services including medication
Inability to access and navigate behavioral health care services (including transportation)	<ol style="list-style-type: none"> 1. Help Line: 24/7/365 with clinical and peer staff providing education, crisis and referral support in accessing and navigating behavioral health services. The staff also provides follow up, helps in accessing payment systems and transportation. 1-844-HELP4WV 2. Increase in the number of primary care sites offering behavioral health service 3. Increased the number of treatment and recovery beds for those seeking help from 409 759 4. Reentry Substance use services have been expanded in 22 counties with 242 individuals served through Treatment Supervision 5. Availability and expanded coverage of telehealth services for rural areas where transportation may be an issue or workforce 6. Provided payment codes for Screening, Brief Intervention & Referral to Treatment (SBIRT) in emergency rooms and DHHR offices
Lack of Housing Opportunities	Safe and Affordable Housing (The Coalition to End Homelessness)

Generational Use	<ol style="list-style-type: none"> 1. Substance Use in Pregnancy Prevention Programs in all regions 2. Implementing the START Program in January 2016, providing early intervention and family treatment teams for pregnant and postpartum women that have a substance use disorder. 3. Expanded school based behavioral health services 4. Safe at Home providing intensive family based wrap around services in home and community 5. Juvenile Justice Programs to focus on early intervention and connection to community services vs. punitive action 6. 4 Moms and Babies 3 year Integrated Recovery Programs to improve health outcomes of mom and child 7. Developing Regional Youth Service Centers to support families close to home 8. 13 Youth Liaisons provide resource coordination and referral supports for youth and families in each comprehensive behavioral health center
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At the October meeting, Counsel to the Commission also provided the membership with two bills from the 2015 Regular Session of the Legislature pertaining to this subject. The first was Senate Bill 348 – Creating pilot program for drug screening of cash assistance applicants. The second was House Bill No. 2012 - Implementing drug screening for recipients of federal-state and state assistance. The difference and similarities between the two pieces of legislation was discussed with Commission members to help guide their deliberations. At the November meeting of the Commission, draft legislation was presented.

The Commission **RECOMMENDS** the passage of legislation during the 2016 Regular Session of the Legislature that would require specified populations seeking public assistance who raise a reasonable suspicion with the Department be tested for substance abuse. A positive test would result in a prohibition from receiving assistance. The time

of the prohibition would be on a sliding scale depending upon whether the test resulted in a positive test and whether it was the first, second or third offense.

Structure and Authority of the Department of Health and Human Resources.

The Commission continues to struggle with the size of the Department. They are concerned that services which the Department are required to provide are impacted by the magnitude of bureaucracy and the inefficiencies inherent in an operation of that size. Although the Commission continues to monitor various operations of the Department pursuant to the provisions of West Virginia Code, Chapter 16, Article 29-E, it is their belief that an independent consulting firm should be contracted to provide a study that would offer options for partitioning the Department into two or more entities. The end result would be delivery of a plan that would provide guidance on what would be most cost effective to the state, what would provide a more efficient operation and offer a structure that would provide the best delivery of services to the citizens of West Virginia.

The Commission **RECOMMENDS** that the Legislature contract with an independent consultant with an expertise in business management and delivery of services to conduct a thorough analysis of the Department and report back with findings and recommendations on the best way to separate the Department into manageable entities. This should include a cost analysis, organizational structure recommendations and a timeline. The study should be returned to both the Joint Commission on Government and Finance and this Commission.

Draft copies of all legislation which would be recommended for passage during the 2016 Regular session of the Legislature are attached to this report.

Respectfully submitted:

Senator Ryan J. Ferns
Co-Chair

Delegate Joe Ellington
Co-Chair

West Virginia Legislature
Legislative Oversight Commission on Health and Human Resources

Abstract

Short Title:

Drug Testing of Public Assistance Recipients

Date Introduced

November 16, 2015

Code Reference

West Virginia Code §9-3-6 – NEW.

Proposed Law Presented to the Committee

This bill would create a pilot program to drug test applicants for benefits for Temporary Assistance to Needy Families (TANF). The bill defines key terms. Most important among these is the term “drug screen”. The bill also defines a “drug test” as a five panel drug test and sets forth the substances for which it would test.

The bill would require a statewide three year pilot program that would be operated according to federal approval. To comply with federal court cases, the bill would require that prior to any drug test, that the Department have “reasonable suspicion” of substance abuse. There are two (2) ways to establish reasonable suspicion. First, would be from the initial screen where an applicant would demonstrate “qualities indicative or substance abuse”. Second would be a prior conviction of a drug-related offense within the five years immediately preceding the application. There is an exception if the applicant can produce a valid prescription

If an applicant is reasonably suspected from the drug screen of substance abuse, they are required to take a drug test. The cost of the test is paid by the Department. After a positive test, the applicant may request further testing at his or her own expense. Following a positive test there is a sliding scale of action to be taken. The first positive test requires completion of a substance abuse and job training program but as long as they remained enrolled in these programs they may continue to receive assistance. A second positive test requires a second round of treatment and requires suspension from TANF for a 12 month period. A third positive test requires permanent termination. Any

person with a positive test is subject to periodic drug screening and testing as set forth in legislative rule. Refusal to take a drug test renders an applicant ineligible.

Any applicant found ineligible to receive TANF as a result of a positive test or a refusal to take a test is subject to an immediate investigation from Child Protective Services. The bill provides for a mechanism for the child to continue to receive assistance through a designated payee should a parent be ineligible.

There is a two year lock out for persons found to be ineligible to receive assistance unless they have a permanent ban. Additionally, there is a provision for reapplication should an applicant demonstrate successful completion of drug treatment plan. There are also provisions for a due process review for a denial. The bill contains confidentiality provisions, grants rulemaking authority to the Secretary, and sets out penalties of \$100 to \$1000 for the misdemeanor offense of misrepresentation of a material fact. The bill would also require a report to the Joint Committee on Government and Finance by December 31, 2016, and every year thereafter during the operation of the pilot program. The bill sets forth what is required to be included in the report. Finally, the bill contains a provision that would require the Secretary to operate the program as consistent as possible with the provisions of the bill for any portion of the law not approved federally.

Government Agencies Affected

Department of Health and Human Resources, Bureau for Children and Families.

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2 S.B./H. B.

3 (By)

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new
11 section designated §9-3-6, relating to drug screening for applicants of benefits from
12 the temporary assistance for needy families program; requiring drug testing of
13 applicants for whom there is a reasonable suspicion of substance abuse; creating
14 a pilot program; setting forth an effective date; defining terms; providing basis for
15 reasonable suspicion of drug use; requiring participation in a substance abuse
16 treatment, counseling and job skills program with an adverse drug test; precluding
17 assistance for refusal to take a drug test; establishing administrative review of
18 decisions to deny benefits; providing a mechanism for dependent children to receive
19 benefits if a parent is deemed ineligible; setting forth prohibition from benefits for an
20 adverse drug test; requiring investigation by Child Protective Services upon denial

1 of benefits from an adverse drug test; setting forth a procedure for reapplication for
2 benefits; authorizing emergency and legislative rulemaking; requiring results of the
3 drug screen or drug test remain confidential; providing criminal penalties; requiring
4 an annual report to the Legislature; setting out elements of the annual report;
5 requiring federal approval the program; requiring an alternative program is federal
6 approval is denied and allowing for exceptions.

7 *Be it enacted by the Legislature of West Virginia:*

8 That the Code of West Virginia, 1931, as amended, be amended by adding thereto
9 a new section designated §9-3-6 to read as follows:

10 **ARTICLE 3. APPLICATION FOR AND GRANTING OF ASSISTANCE.**

11 **§9-3-6. Pilot program for drug screening of applicants for cash assistance.**

12 (a) As used in this section:

13 (1) "Applicant" means a person who is applying for or who has applied for
14 benefits from the Temporary Assistance for Needy Families Program;

15 (2) "Board of Review" means the board established in section six, subdivision
16 thirteen of this article;

17 (3) "Caseworker" means a person employed by the Department with
18 responsibility for making a reasonable suspicion determination during the application
19 process for Temporary Assistance for Needy Families;

20 (4) "Child Protective Services" means the agency within the Department

1 responsible for investigating reports of child abuse and neglect as required in section eight
2 hundred two, article two, chapter forty-nine of this code;

3 (5) "Department" means the Department of Health and Human Resources;

4 (6) "Drug Screen" or "Drug Screening" means any analysis regarding substance
5 abuse conducted pursuant to the Emotional Health Inventory (EHI) administered
6 through a contract with the West Virginia Department of Education.

7 (7) "Drug Test" or "Drug Testing" means a five panel drug test which tests urine
8 for five specific categories of drugs. The categories include cocaine, amphetamines,
9 methamphetamine, opioids, and Tetrahydrocannabinol (THC) .

10 (8) "Secretary" means the Secretary of the Department or his or her designee.

11 (9) "Temporary Assistance for Needy Families Program" means assistance
12 provided through ongoing cash benefits pursuant to 42 U.S.C. §601, *et seq* operated in
13 West Virginia as the West Virginia Works Program pursuant to article nine of this chapter.

14 (b) By July 1, 2016, and subject to federal approval, the Secretary shall
15 implement and administer a three year pilot program to drug screen any adult applying for
16 assistance from the Temporary Assistance for Needy Families Program.

17 (c) Reasonable suspicion exists if:

18 (1) If a case worker determines based upon the result of the drug screen that the
19 applicant demonstrates qualities indicative of substance abuse based upon the indicators
20 of the drug screen.

1 (2) An applicant has been convicted of a drug-related offense within the five
2 years immediately prior to an application for Temporary Assistance for Needy Families and
3 whose conviction becomes known as a result of a drug screen as set forth in this section.

4 (3) The applicant or applicants are the parent or parents of a newborn infant who
5 within five days of birth test positive for certain controlled substances which are not legally
6 prescribed. These controlled substances are amphetamines, tetrahydrocannabinol,
7 oxycodone, cocaine, phencyclidine (PCP) , any opiate, barbiturate, benzodiazepine,
8 methamphetamine, propoxyphene, and any tricyclic antidepressants. Additional
9 substances may be added by the Secretary in rule. If the parents agree to undergo a
10 course of substance abuse education and treatment as prescribed in article fifteen, chapter
11 sixty-two of this code, or the substantial equivalent, the parents are eligible to apply for the
12 benefits, subject to the imposition of further mandatory drug testing consistent with the
13 provisions of this section.

14 (4) Presentation of a valid prescription for a detected substance that is prescribed
15 by a health care provider authorized to prescribe a controlled substance is an absolute
16 defense for failure of any drug test administered under the provisions of this section.

17 (d) Upon a determination by the case worker of reasonable suspicion as set forth
18 in this section an applicant shall be required to complete a drug test. The cost of
19 administering the drug test shall be deducted from the applicant's first payment of
20 Temporary Assistance to Needy Families. If the drug test is negative, the costs shall be

1 reimbursed to the applicant. Any applicant whose drug test results are positive may
2 request that the drug test specimen be sent to an alternative drug testing facility for
3 additional drug testing. Any applicant who requests an additional drug test at an
4 alternative drug testing facility shall be required to pay the cost of the alternative drug test.
5 Any applicant who requested an alternative drug test and who tests negative for unlawful
6 use of a controlled substance shall be reimbursed for the cost of the alternative drug test.

7 (e) Any applicant who has a positive drug test shall complete a substance abuse
8 treatment and counseling program and a job skills program approved by the Secretary.
9 Subject to applicable federal laws, any applicant for Temporary Assistance to Needy
10 Families Program who fails to complete or refuses to participate in the substance abuse
11 treatment and counseling program or job skills program as required under this subsection
12 is ineligible to receive Temporary Assistance to Needy Families until completion of the
13 substance abuse treatment and counseling and job skills programs. Upon completion of
14 both a substance abuse treatment and counseling program and a job skills program, the
15 applicant is subject to periodic drug screening and testing as determined by the Secretary
16 in rule. Upon a second positive drug test an applicant shall be ordered to complete a
17 second substance abuse treatment and counseling program and job skills program. He
18 or she shall be suspended from the Temporary Assistance to Needy Families Program for
19 a period of twelve months, or until he or she completes both a substance abuse treatment
20 and a job skills programs, whichever is later. Upon a third positive drug test an applicant

1 shall be permanently terminated from the Temporary Assistance to Needy Families
2 Program subject to applicable federal law.

3 (f) Any applicant who refuses a drug screen or a drug test is ineligible for
4 assistance.

5 (g) The Secretary shall order an investigation and home visit from Child
6 Protective Services on any applicant who is declared ineligible for failure to pass a drug
7 test. This investigation and home visit shall take place within 48 hours from the date of the
8 Secretary's decision that the applicant is ineligible. This investigation and home visit may
9 include a face-to-face interview with the child, if appropriate, the development of a
10 protection plan and, if necessary for the health and wellbeing of the child, may also involve
11 law enforcement. This investigation and home visit shall be followed by a report detailing
12 recommended action which Child Protective Services shall undertake. This report shall
13 be compiled within 14 days of the investigation and home visit by Child Protective Services.
14 Child Protective Services shall be responsible for providing, directing or coordinating the
15 appropriate and timely delivery of services to any child who is the subject of any
16 investigation and home visit conducted pursuant to this section. In those cases where
17 Child Protective Services determines that the best interests of the child requires court
18 action, they shall initiate the appropriate legal proceeding.

19 (h) Any other adult members, of a household that includes a person declared
20 ineligible for the Temporary Assistance for Needy Families Program pursuant to this

1 section shall, if otherwise eligible, continue to receive Temporary Assistance for Needy
2 Families benefits.

3 (i) (1) No dependent child's eligibility for benefits under the Temporary
4 Assistance for Needy Families Program may be affected by a parent's failure to pass a
5 drug test.

6 (2) If pursuant to this section a parent is deemed ineligible for the Temporary
7 Assistance for Needy Families Program, the dependent child's eligibility is not affected and
8 an appropriate protective payee shall be designated to receive benefits on behalf of the
9 child.

10 (3) The parent may choose to designate another person as a protective payee
11 to receive benefits for the minor child. The designated person shall be an immediate family
12 member or, if an immediate family member is not available or declines the option, another
13 person may be designated.

14 (4) The designated person shall be approved by the Secretary and shall also
15 undergo drug screening prior to approval to receive benefits on behalf of the child. If the
16 results of the drug screen are unsatisfactory to the Secretary, the designated person shall
17 be required to submit to a drug test. If the results of the drug tests indicate the presence
18 of a controlled substance the person is ineligible to receive benefits on behalf of the child
19 and an alternative payee shall be designated. The cost of administering the drug test shall
20 be paid by the alternative payee.

1 (j) (1) An applicant who is found to be ineligible pursuant to the provisions
2 of (d) of this section is eligible to reapply for benefits two years from the date the
3 Secretary determined the applicant to be ineligible unless he or she meets the
4 requirements of subdivision (2) of the subsection. An applicant determined to be
5 ineligible under provisions of this section shall submit to a mandatory drug screen as part
6 of a reapplication for the Temporary Assistance for Needy Families Program and is subject
7 to the provisions of subsection (e) of this section.

8 (2) An applicant who is determined by the Secretary to be ineligible to receive
9 benefits pursuant to subsection (e) of this section who can document successful
10 completion of a drug treatment program approved by the Secretary, he or she may reapply
11 for benefits six months after the Secretary has declared the applicant ineligible. An
12 applicant who has met the requirements of this subdivision and reapplies shall also be
13 required to submit to a drug test and is subject to the provisions of subsection (e) of this
14 section.

15 (3) An applicant may reapply only once pursuant to the exceptions contained in
16 this subsection.

17 (4) The cost of any drug screen or test and drug treatment provided under this
18 subsection is the responsibility of the individual being screened and receiving treatment.

19 (k) An applicant who is denied assistance under this section may request a
20 review of the denial by the Board of Review. The results of a drug screen or test are

1 admissible without further authentication or qualification in the review of denial by the
2 Board of Review and in any appeal. The Board of Review shall provide a fair, impartial and
3 expeditious grievance and appeal process to applicants who have been denied Temporary
4 Assistance to Needy Families pursuant to the provisions of this section. The Board of
5 Review shall make findings regarding the denial of benefits and issue a decision which
6 either verifies the denial or reverses the decision to deny benefits. Any applicant adversely
7 affected or aggrieved by a final decision or order of the Board of Review may seek judicial
8 review of that decision.

9 (l) The Secretary shall ensure the confidentiality of all drug screen and drug test
10 results administered as part of this program. Drug screen and test results shall only be
11 used for the purpose of determining eligibility for the Temporary Assistance for Needy
12 Families Program. At no time may drug screen or test results be released to any public or
13 private person or entity or any law-enforcement agency, except as otherwise authorized
14 by this section.

15 (m) The Secretary shall promulgate emergency rules pursuant to the provisions
16 of article three, chapter twenty-nine-a to prescribe the design, operation, and standards for
17 the implementation of this section.

18 (n) A person who intentionally misrepresents any material fact in an application
19 filed under the provisions of this section is guilty of a misdemeanor and, upon conviction
20 thereof, shall be punished by a fine of not less than \$100 or more than \$1,000 or by

1 imprisonment in jail not exceeding six months or by both fined and imprisoned.

2 (o) The Secretary shall report to the Joint Committee on Government and
3 Finance by December 31, 2016, and annually thereafter until the conclusion of the pilot
4 program on the status of the pilot program described in this section. The report shall
5 include, but is not limited to:

6 (1) the total number of applicants who were deemed ineligible to receive benefits
7 under the program because of a positive drug test for controlled substances;

8 (2) the number of applicants for whom there was a reasonable suspicion because
9 they had a conviction of a drug-related offense within the five years prior to an application
10 for assistance;

11 (3) the number of applicants for whom there was a reasonable suspicion because
12 thy are the parent or parents of a newborn child who tests positive for the controlled
13 substances set forth in subdivision (3) of subsection (c) of this section;

14 (4) the number of those applicants that receive benefits after successful
15 completion of a drug treatment program as specified in this section; and

16 (5) the total cost or operate the program.

17 (p) Should federal approval not be given for the program as set forth in this
18 section, the Secretary shall implement a three year pilot program for drug screening
19 applicants which meets with federal approval and is consistent with the purpose of this
20 section .



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July 20, 2015

Honorable Eric Nelson
Room 462M, Building 1
State Capitol Complex
Charleston, WV 25305

Re: House Concurrent Resolution No. 143

Honorable Eric Nelson,

Introduction. You provided Arnett Carbis Toothman LLP (**ACT**) a copy of House Concurrent Resolution No. 143 which addresses the feasibility of divestiture and privatization or development of a performance-based, public-private partnership model for the operation and maintenance of all or some of the State's hospital and nursing facilities. In our communication, you requested that we provide you with a list of items we may need, and a timeline and cost for ACT to conduct the following for the state owned **nursing facilities**:

1. An operational and clinical assessment, and
2. A business valuation to determine the value of the assets.

Nursing Facilities. We are initially addressing the following Nursing Facilities:

1. Hopemont Hospital
2. Jackie Withrow Hospital
3. John Manchin Sr. Health Care Center
4. Lakin Hospital
5. West Virginia Veterans' Nursing Facility

We can address the Hospital facilities in a separate letter should you desire we provide information on those as well, but we have not addressed the Hospital facilities in this letter.

Items Needed. Should we begin the processes above, we would request significant information. Items we would need now would include the financial statements of each entity over the most recent five years.

Our Understanding. We understand that the State owned nursing homes are licensed by the West Virginia Department of Health & Human Services, Office of Health Facility Licensure & Certification (**OHFLAC**). We believe that the State owned nursing homes complete the Minimum Data Set (MDS) on residents, and are subject to regular surveys and investigations by OHFLAC. We understand the services provided by the State owned nursing homes.

Reasons for an Operational and Clinical Assessment. The key reasons to conduct an operational and clinical assessment include:

- a. Should the State decide not to divest or privatize the nursing facilities, it provides a comparison to best practices and includes recommendations for efficiencies.
- b. Outcomes from the assessment could materially impact the business valuations. Improvements in efficiency would likely increase the marketability and value in a sale.

Operational and Clinical Assessment. An operational and clinical assessment of the nursing facilities would include the following:

1. **Leadership Team Assessment.** Evaluate the leadership team and skill set present and, if appropriate, recommend training and enhancements to the skill sets present. This would include key management that directs the day to day operations of the Nursing Home (Administrator, Director of Nursing, and Charge Nurses).
2. **Financial Performance / Operational Cost Analysis.** Compare financial performance and operating costs at the departmental level to benchmarks to determine areas where efficiencies may be gained.
3. **Education & Training.** Conduct training and educational sessions with key management and nursing personnel related to management best practices for areas with identified need as the engagement progresses.
4. **Therapy Productivity.** Evaluate therapy services and make recommendations to achieve optimal levels of productivity and care.
5. **Staffing Mix.** Evaluate the staffing mix to recommended optimal levels.
6. **MDS Compliance.** Evaluate compliance with Minimum Data Set (MDS) coding guidelines as documented in the Resident Assessment Instrument User's Manual. Review of Quality Measure, PEPPER (Program for Evaluating Payment Patterns Electronic Report) and CASPAR (Certification and Survey Provider Enhanced Reports) reports for operational implications and need for corrective action.
7. **Documentation Practices.** Review documentation for consistency with guidelines to support the MDS and build a Resource Utilization Group (RUG) that supports Medicare and / or Medicaid RUG groupers.
8. **Optimize Documentation.** Provide training to appropriate members of the interdisciplinary team on how to optimize documentation, capture it in the MDS, and maintain compliance with regulatory guidelines.
9. **Clinical Monitoring.** Conduct clinical audits and monitoring to evaluate (or implement) requirements of the Patient Protection and Affordable Care Act to test for criminal, civil or administrative violations.
10. **PPACA Systems.** Evaluate internal auditing and monitoring policies and procedures, training programs and reporting processes and controls that are designed to prevent criminal, civil or administrative violations. Assess existing information and processes to determine baseline policies and procedures. Review baseline information and use GAP or SWOT analysis to determine short-falls as compared regulations for preventing and

detecting criminal, civil and administrative violations. Testing policies and processes for PPACA compliance effectiveness. Assessment includes review of compliance policies and procedures, training programs and monitoring and reporting processes. Assess effectiveness of tracking and risk management tools and processes in place.

11. **Quality Assurance Performance Improvement (QAPI).** Evaluate QAPI monitoring, systems and reporting processes and activities of the QAPI Committee. Document and assess existing information to determine baseline policies and procedures. Review baseline information and use GAP or SWOT analysis to determine short-falls as compared regulations for preventing and detecting criminal, civil and administrative violations. Assess quality assessment and performance improvement measures and utilization of dashboards for collecting and monitoring processes considering CMS guidelines and the PPACA. Reassess process for ensuring compliance with specifications, requirements and standards and identifying indicators for performance monitoring and compliance with standards.

Business Valuation Purpose. The purpose of the business valuation would be to determine the potential value the State could realize upon sale of the nursing facility assets. The specific assets sold may be different depending on the nursing facility. Options for valuing the assets include:

1. Value of licensed beds, if the real property is sold separately.
2. Value of the real property separately.
3. Value of the operating entity, including all real and personal property.

Considering the age of some of the buildings, differing options should be considered.

Business Valuation Process. The business valuation process involves three approaches generally categorized as follows:

1. Income-based Approach
2. Asset-based Approach
3. Market-based Approach

We would follow professional valuation standards and consider each valuation approach. Within each of these approaches there are different methods for determining business value. The business valuator must prudently assess the applicability of each broad approach and the subset of methods contained thereunder, given the facts and circumstances of the particular assignment. In addition, some valuation methods are based on some combination of the above approaches.

A brief, high-level summary of items included in the business valuation are:

- a. Significant analysis of financial data.
- b. Normalization adjustments made to reflect economic reality.
- c. All approaches to value considered.
- d. Impact of discounts and premiums carefully considered.
- e. Research on the industry conducted and impact reflected.

- f. Research on the competition conducted and impact reflected.
- g. Research on the economy (local, regional, national) conducted and impact reflected.
- h. Report covering relevant information.

Fees. The estimated fee to complete the operational and clinical assessments and the business valuations follow.

#	Name	Location	Licensed Beds (1)	Funding (1)	Clinical & Operational Assessment Fee	Business Valuation Fee (2)
1	Hopemont Hospital	Terra Alta	98	Medicaid & Private	\$ 40,000	\$ 35,000
2	Jackie Withrow Hospital	Beckley	199	Medicaid & Private	40,000	35,000
3	John Manchin, Sr. Health Care Center	Fairmont	41	Medicare, Medicaid & Private	40,000	35,000
4	Lakin Hospital	West Columbia	114	Medicaid & Private	30,000	38,000
5	West Virginia Veterans' Nursing Facility	Clarksburg	120	Private Pay	38,000	40,000

(1) Source: OHFLAC Website.

(2) A fee for a real estate appraisal would be added to ACT's fee. The real estate appraiser's fee has yet to be determined.

Including the operational and clinical assessments result in a lower fee for the business valuations since information obtained would be used in the business valuations.

Timeline. To compete the operational and clinical assessments and the business valuations we would need **four months** of time.

Please let us know if you have questions.

ARNETT CARBIS TOOTHMAN LLP



Lane Ellis, Jr., CPA, CISA, CVA, ABV, CGMA
Partner



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Earl Ray Tomblin
Governor

Bureau for Medical Services
Commissioner's Office
350 Capitol Street – Room 251
Charleston, West Virginia 25301-3706
Telephone: (304) 558-1700 Fax: (304) 558-1451

Karen L. Bowling
Cabinet Secretary

April 13, 2015

Office of the Senate President – Lt Governor
William P. Cole
Room 229M, Building 1
State Capitol Complex
Charleston, WV 25305

RE: School Based Health Services

Dear Senate President Cole:

Thank you for your interest in the Bureau for Medical Services ("Bureau") School Based Health Services ("SBHS") program. It is my understanding there may be questions as to whether or not the Bureau is accessing all Medicaid funds which may be available for SBHS. A history of the Bureau's SBHS program will help you understand why the Bureau is currently accessing all Medicaid funds available for SBHS.

In the late 1990's, the Bureau decided to cover additional SBHS for Medicaid eligible special needs students in public schools. The Bureau determined that seven (7) additional categories of services should be covered as SBHS. These were: (1) Health Needs Assessment and Treatment Planning (Triennial Assessment); (2) Health Needs Assessment and Treatment Planning (Annual Assessment); (3) Personal Care Services (Half-Day); (4) Personal Care Services (Full-Day); (5) Specialized Transportation (Vehicle); (6) Specialized Transportation (Aide); and (7) Care Coordination.

In 2000, the Bureau submitted and the Centers for Medicare and Medicaid Services ("CMS") approved a State Plan Amendment ("SPA") modifying the SBHS services and reimbursement methodology for those services. Specifically, the SPA provided that payment to the school district was:

Reimbursement for shall be fee-for service. Reimbursement interim rates are based on statewide historical cost for [each service] Cost not to exceed actual, reasonable costs and must be cost settled on an annual basis.

(W.V. State Plan, Attachment 4.19-B)

Subsequently, in or around 2009 and consistent with their statutory and regulatory authority the Federal Office of Inspector General (“OIG”) began an audit of the Bureau’s SBHS program. The OIG concluded, in its audit, that the federal government had improperly provided \$22,806,230 in Federal Financial Participation (“FFP”) for SBHS for the period October 1, 2001 through September 30, 2003. Therefore, the Bureau faced a potential disallowance of almost \$23 million dollars. The Bureau, however, appealed this determination.

By decision dated September 20, 2013, the Departmental Appeals Board (“DAB”), Appellate Division, reversed the OIG’s determination and found that West Virginia had reasonably interpreted its State Plan by including certain costs which the OIG had excluded in its audit. Thus, the Bureau avoided a significant payback to CMS on SBHS.

In an almost simultaneous time period as the audit, the Bureau submitted to CMS a State Plan Amendment unrelated to SBHS for approval. However, as a result of the submission, CMS was able to mandate the Bureau to revise its SBHS SPA. The process of revising the SBHS SPA began on or around September 2011.

For almost a year, the Bureau worked with CMS on revising the SBHS SPA. In September 2012, the Bureau submitted the SPA to CMS for their approval. The effective date of this SPA was to be July 1, 2012.

However, due to concerns by CMS about certain provisions of the SBHS SPA, the Bureau and CMS agreed to work collaboratively and revise the SPA. The collaboration resulted in the effective date of the SPA changing from July 1, 2012 to July 1, 2014. During this period the Bureau had multiple conversations with the Department of Education (“DOE”) and kept DOE apprised on all matters relating to the revised SBHS Methodology. This new SBHS Methodology was approved by CMS on November 25, 2014.

As you can see from the history of the Bureau’s School Based Health Services Program, all efforts have been utilized to maximize Medicaid dollars which may be available. For your convenience, I have attached a copy of the Departmental Appeals Board Decision as well as the recently approved State Plan Amendment.

Should you have any questions or comments, please do not hesitate to contact me.

Kindest regards,



Alva Page III, Esquire
General Counsel

West Virginia Bureau for Medical Services

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
150 S. Independence Mall West
Suite 216, The Public Ledger Building
Philadelphia, Pennsylvania 19106-3499



Region III/Division of Medicaid and Children's Health Operations

SWIFT #091220124038

NOV 25 2014

Ms. Cynthia E. Beane, MSW, LCSW
Acting Commissioner
Bureau for Medical Services
350 Capitol Street, Room 251
Charleston, West Virginia 25301-3706

Dear Acting Commissioner Beane:

The Centers for Medicare & Medicaid Services (CMS) has reviewed West Virginia's School Based Health Services State Plan Amendment (SPA) 12-006, in which you propose to more accurately match payments to the cost of services being provided to Medicaid members receiving direct medical services outlined on the Individualized Education Plan (IEP) in the school setting. West Virginia SPA 12-006 is a response to CMS companion letters for SPA 09-02 and SPA 11-011.

This SPA is acceptable. Therefore, we are approving SPA 12-006 with an effective date of July 1, 2014. Enclosed are the approved SPA pages and the signed CMS-179 form. Please note that accompanying this approval of SPA 12-006, there is an enclosed companion letter addressing unrelated issues that arose in review of this SPA.

If you have further questions about this SPA, please contact Margaret Kosherzenko of my staff at 215-861-4288.

Sincerely,

A handwritten signature in black ink, appearing to read "Francis McCullough". The signature is fluid and cursive, written over the printed name and title.

Francis McCullough
Associate Regional Administrator

Enclosures

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
Limitations on Amount, Duration and Scope of Services
Provided to the Categorically Needy

State: West Virginia

Addendum to Attachment 3.1-A

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School-Based Health Services (Special Education):

The School-Based Health Services program includes medically necessary covered health care services identified pursuant to an IEP Plan provided by or through the West Virginia Department of Education (DOE) or a Local Education Agency (LEA). These medically necessary health care services must be ordered by a physician or other licensed practitioners of the healing arts within the scope of license as defined under the West Virginia Code to eligible special education students from birth to age 21. The State assures full EPSDT services as defined under 1905(r) will be provided for individuals under 21 who are covered under the State Plan under section 1902(a) (10) (A) to ensure early and periodic screening, diagnostic, and treatment services are provided when medically necessary.

The State assures that the provision of services will not restrict an individual's free choice of qualified providers in violation of section 1902(a)(23) of the Social Security Act. The Medicaid-eligible individual may obtain Medicaid Services from any institution, agency, pharmacy, person or organization that is qualified to perform services.

The services are defined as follows:

A. Audiology, Speech, Hearing and Language Disorders Services:

Definition: Per 42 CFR §440.110 (c): Services for individuals with speech, hearing, and language disorders means diagnostic, screening, preventive, or corrective services provided by or under the direction of a speech pathologist or audiologist, for which a patient is referred by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law. It includes any necessary supplies and equipment.

Services may include, but are not limited to, testing and/or clinical observation as appropriate for chronological or developmental age for one or more of the following areas of functioning:

- Auditory acuity (including pure tone air and bone conduction), speech detection, and speech reception threshold;
- Auditory discrimination in quiet and noise;
- Impedance audiometry, including tympanometry and acoustic reflex;
- Central auditory function;
- Testing to determine the child's need for individual amplification; selection and fitting of aid(s);

TN No: 12-006
Supersedes: NEW

Approval Date: NOV 25 2014
CMS Approval Date

Effective Date: 07/01/14

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- Hearing aid evaluation;
- Auditory training; and training for the use of augmentative communication devices.

All services shall be fully documented in the medical record.

Qualified Practitioners: Qualified providers must meet the requirements in 42 CFR §440.110 and be licensed by the WV Board of Examiners of Speech, Language Pathology, and Audiology. Speech, hearing, and language disorders services can also be provided by a Speech-Language Pathology Assistant or Audiology Assistant provided the requirements outlined in W.Va. Code St. R. §29-2-1 *et seq.* (1994) are met.

B. Occupational Therapy Services:

Definition: Per 42 CFR §440.110 (b)(1) Occupational therapy means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified occupational therapist. It includes necessary supplies and equipment.

Services may include, but are not limited to, testing and/or clinical observation as appropriate for chronological or developmental age for one or more of the following areas of functioning:

- Activities of daily living assessment and training;
- sensory integration;
- sensorimotor assessment and training;
- neuromuscular assessment and development;
- muscle strengthening and endurance training;
- fine motor assessment and skills facilitation;
- feeding/oral motor assessment and training;
- adaptive equipment application;
- visual perceptual assessment and training;
- perceptual motor development assessment and training;
- musculo-skeletal assessment;
- fabrication and application of splinting and orthotic devices;
- manual therapy techniques;
- gross motor assessment and skills facilitation; and
- functional mobility assessment.

All services shall be fully documented in the medical record.

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Qualified Practitioners: Qualified providers must meet the requirements in 42 CFR §440.110 and be licensed by the West Virginia Board of Occupational Therapy. Occupational Therapy services can also be provided by a certified occupational therapy assistant (COTA) under the supervision of a licensed occupational therapist, provided the conditions outlined in W.Va. Code St. R. §13-1-1 et seq. (2010) are met.

C. Physical Therapy Services:

Definition: Per 42 CFR §440.110 (a) (1) Physical therapy means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified physical therapist. It includes any necessary supplies and equipment.

Service may include, but are not limited to, testing and/or clinical observation as appropriate for chronological or developmental age for one or more of the following areas of functioning:

- Neuromotor assessment;
- range of motion;
- joint integrity and functional mobility;
- flexibility assessment;
- gait, balance and coordination assessment and training;
- posture and body mechanics assessment and training;
- soft tissue assessment;
- pain assessment;
- cranial nerve assessment;
- clinical electromyographic assessment;
- nerve conduction;
- latency and velocity assessment;
- therapeutic procedures;
- hydrotherapy;
- manual manipulation;
- gross motor development;
- muscle strengthening;
- functional training;
- facilitation of motor milestones;
- sensory motor assessment and training;
- manual muscle test;
- activities of daily living assessment and training;
- therapeutic exercise;

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- cardiac assessment and training;
- Manual therapy techniques;
- fabrication and application of orthotic devices;
- pulmonary assessment and enhancement;
- adaptive equipment application; and
- feeding/oral motor assessment and training.

All services shall be fully documented in the medical record.

Qualified Practitioners: Qualified providers must meet the requirements in 42 CFR §440.110 and be licensed by the West Virginia Board of Physical Therapy. Physical therapy services can also be provided by licensed physical therapy assistants under the direct supervision of a licensed physical therapist provided the conditions outlined in W.Va. Code St. R. §16-1-1 *et seq.* (2011) are met.

D. Psychological Services:

Definition: Per 42 CFR §440.60 (a) "Medical care or any other type remedial care provided by licensed practitioners" means any medical or remedial care or services, other than physicians' services, provided by licensed practitioners within the scope of practice as defined under State law. Psychological services include those services related to the evaluation, testing, diagnosis and treatment of social, emotional or behavioral problems.

Service may include, but are not limited to, testing and/or clinical observation as appropriate for chronological or developmental age for one or more of the following areas of functioning:

- Cognitive assessment;
- emotional/personality assessment;
- adaptive behavior assessment;
- behavior assessment;
- perceptual or visual motor assessment;
- Cognitive-behavioral therapy;
- rational-emotive therapy;
- family therapy;
- individual interactive psychotherapy using play equipment, physical devices, language interpreter or other mechanisms of non-verbal communication; and
- sensory integrative therapy.

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CMS Approval Date

Effective Date: 07/01/14

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All services shall be fully documented in the medical record.

Qualified Practitioners: Qualified providers must meet the requirements in 42 CFR §440.60. Minimum qualification for providing services are current licensure by the WV Board of Examiners of Psychologists as a licensed psychologist, licensed School psychologist or licensed School psychologist independent practitioner.

E. Nursing Services:

Definition: Per 42 CFR §440.60 (a), Federal regulations identify medical or other remedial care provided by licensed practitioners as “any medical or remedial care or services, other than physicians’ services, provided by licensed practitioners within the scope of practice as defined under State law.”

Nursing services include, but are not necessarily limited to:

- anaphylactic reaction;
- manual resuscitator;
- postural drainage and percussion;
- catheterization;
- mechanical ventilator;
- seizure management;
- measurement of blood sugar;
- subcutaneous insulin infusion;
- emergency medication administration;
- oral suctioning;
- subcutaneous insulin infusion by injection;
- enteral feeding;
- ostomy care;
- tracheostomy care;
- epinephrine auto-injector;
- oxygen administration;
- inhalation therapy;
- peak flow meter; and
- long-term medication administration.

All services shall be fully documented in the medical record.

Qualified Practitioners: Qualified providers must meet the requirements in 42 C.F.R. §440.60 (a) and be licensed by the West Virginia Board of Examiners for Registered Professional Nurses as a registered professional nurse (RN).

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F. Personal Care Services:

Definition: Per 42 CFR §440.167, Personal care services means services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for individuals with intellectual disability, or institution for mental disease that are (1) Authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State; (2) Provided by an individual who is qualified to provide such services and who is not a member of the individual's family; and (3) Furnished in a home, and at the State's option, in another location.

Services related to a child's physical and behavioral health requirements may include, but are not limited to, the following:

- Assistance with eating, dressing, personal hygiene;
- Activities of daily living;
- Bladder and bowel requirements;
- Use of adaptive equipment;
- Ambulation and exercise;
- Behavior modification; and/or
- Other remedial services necessary to promote a child's ability to participate in, and benefit from the educational setting.

All services shall be fully documented in the medical record.

Qualified Practitioners: Qualified providers must meet the requirements in 42 CFR §440.167. Services are furnished by providers who have satisfactorily completed a program for home health aides/nursing assistants, or other equivalent training, or who have appropriate background and experience in the provision of personal care or related services for individuals with a need for assistance due to physical or behavioral conditions.

G. Targeted Case Management:

Definition: Targeted Case Management services, provided in accordance with 1902(a)(10)(B) of the Act and as defined under 1905(a)(19) of the Act and 42 CFR 440.169, are activities that assist Title XIX eligible school-age children who are referred for, or are receiving, medical services pursuant to a Service Plan.

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 N/A Target group includes individuals transitioning to a community setting. Case-management services will be made available for up to consecutive days of a covered stay in a medical institution. The target group does not include individuals between ages 22 and 64 who are served in Institutions for Mental Disease or individuals who are inmates of public institutions). (State Medicaid Directors Letter (SMDL), July 25, 2000)

Areas of State in which services will be provided (§1915(g)(1) of the Act):

- Entire State
 Only in the following geographic areas: [Specify areas]

Comparability of services (§§1902(a)(10)(B) and 1915(g)(1))

- Services are provided in accordance with §1902(a)(10)(B) of the Act.
 Services are not comparable in amount duration and scope (§1915(g)(1)).

Targeted Case Management services are a component of the TCM Service Plan. Targeted Case Management identifies and addresses special health problems and needs that affect the student's ability to learn, assist the child to gain and coordinate access to a broad range of medical, social, educational, and other services, and ensures that the student receives effective and timely services appropriate to their needs.

In accordance with State Medicaid regulations, the school district shall complete and submit to the State a TCM Service Plan for the delivery of Targeted Case Management services. The district shall have a representative group of parents and community-based providers, including the local public health department, EPSDT case managers and any existing school-based health centers to assist in developing the TCM Service Plan. Included in the TCM Service Plan is the provision for coordination of benefits and Targeted Case Management across multiple providers to:

- Achieve service integration, monitoring and advocacy;
- Provide needed medical, social, educational, and other services;
- Ensure that services effectively complement one another; and
- Prevent duplication of services.

The school district shall inform the family of a Medicaid-eligible student receiving Targeted Case Management services from more than one provider that the family may choose one lead case manager to facilitate coordination.

Targeted Case Management services must include any of the following activities:

- Needs Assessment and Reassessment;
- Development and Revision of Service Plan;

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- Referral and Related Activities; or
 - Monitoring and follow-up activities;
1. Needs Assessment and Reassessment: Reviewing of the individual's current and potential strengths, resources, deficits and need for medical, social, educational and other services. Gathering information from other sources such as family members, medical providers, social workers, and educators (if necessary), to form a complete assessment of the eligible individual. Results of assessments and evaluations are reviewed and a meeting is held with the individual, his or her parent(s) and /or guardian, and the case manager to determine whether services are needed and, if so, to develop a service plan. At a minimum, an annual face-to-face reassessment shall be conducted to determine if the client's needs or preferences have changed.
 2. Development and Revision of the TCM Service Plan: Developing a written plan based on the assessment of strengths and needs, which identifies the activities and assistance needed to accomplish the goals collaboratively developed by the individual, his or her parents(s) or legal guardian, and the case manager. Development (and periodic revision) of the TCM Service Plan will specify the goals and actions to address the medical, social, educational, and other services needed by the eligible individual. The service plan describes the nature, frequency, and duration of the activities and assistance that meet the individual's needs. Periodic revisions to the TCM Service Plan will be made at a minimum annually.
 3. Referral and Related Activities: Facilitating the individual's access to the care, services and resources through linkage, coordination, referral, consultation, and monitoring. This is accomplished through in-person and telephone contacts with the individual, his or her parent(s) or legal guardian, and with service providers and other collaterals on behalf of the individual. This will occur as necessary, but at least annually. This may include facilitating the recipient's physical accessibility to services such as arranging transportation to medical, social, educational and other services; facilitating communication between the individual, his or her parent(s) or legal guardian and the case manager and between the individual, his or her parent(s) or legal guardian and other service providers; or, arranging for translation or another mode of communication. It also includes advocating for the individual in matters regarding access, appropriateness and proper utilization of services; and evaluating, coordinating and arranging immediate services or treatment needed in situations that appear to be emergent in nature or which require immediate attention or resolution in order to avoid, eliminate or reduce a crisis situation for a specific individual. This may also include acquainting the individual, his or her parent(s) or legal guardian with resources in the community and providing information for obtaining services through community programs.

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4. **Monitoring and Follow-up Activities:** The case manager shall conduct regular monitoring and follow-up activities with the client, the client's legal representative, or with other related service providers. Monitoring will be done to ensure that services are being furnished in accordance with the individual's TCM Service Plan. Periodic review of the progress the individual has made on the service plan goals and objectives and the appropriateness and effectiveness of the services being provided on a periodic basis. This review may result in revision or continuation of the plan, or termination of Targeted Case Management services if they are no longer appropriate. Periodic reviews may be done through personal and telephone contacts with the individual and other involved parties. The periodic reviews will be conducted as necessary but at least annually.

All services shall be fully documented in the medical record.

Non-Duplication of Services: To the extent any eligible School-Based Health Services recipients are receiving Targeted Case Management services from another provider agency as a result of being members of other covered targeted groups; the School-Based Health Services providers will ensure that Targeted Case Management activities are coordinated to avoid unnecessary duplication of service.

Targeted Case Management includes contacts with non-eligible individuals that are directly related to identifying the eligible individual's needs and care, for the purposes of helping the eligible individual access services; identifying needs and supports to assist the eligible individual in obtaining services; providing case managers with useful feedback, and alerting case managers to changes in the eligible individual's needs. Targeted Case Management activities shall not restrict or be used as a condition to restrict a client's access to other services under the state plan.

Qualified Practitioner: Targeted Case Management activities may be provided by any willing qualified provider pursuant to 1902(a)(23) of the Social Security Act. Case Managers must be affiliated with a licensed Behavioral Health Services Provider or School Based Health Services Provider and possess one of the following qualifications:

- A psychologist with a Masters' or Doctoral degree from an accredited program
- A licensed social worker
- A licensed registered nurse
- A Masters' or Bachelors' degree granted by an accredited college or university in one of the following human services fields:
 - o Psychology
 - o Criminal Justice
 - o Board of Regents with health specialization

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- Recreational Therapy
- Political Science
- Nursing
- Sociology
- Social Work
- Counseling
- Teacher Education
- Behavioral Health
- Liberal Arts or;
- Other degrees approved by the West Virginia Department of Education (WVDE).

Note: West Virginia does not enroll independent Target Case Manager Providers.

Freedom of choice (42 CFR 441.18(a)(1)):

The State assures that the provision of case management services will not restrict an individual's free choice of providers in violation of section 1902(a)(23) of the Act.

1. Eligible individuals will have free choice of any qualified Medicaid provider within the specified geographic area identified in this plan.
2. Eligible individuals will have free choice of any qualified Medicaid providers of other medical care under the plan.

Access to Services (42 CFR 441.18(a)(2), 42 CFR 441.18(a)(3), 42 CFR 441.18(a)(6)):

The State assures the following:

- Case management (including targeted case management) services will not be used to restrict an individual's access to other services under the plan.
- Individuals will not be compelled to receive case management services, condition receipt of case management (or targeted case management) services on the receipt of other Medicaid services, or condition receipt of other Medicaid services on receipt of case management (or targeted case management) services; and
- Providers of case management services do not exercise the agency's authority to authorize or deny the provision of other services under the plan.

Payment (42 CFR 441.18(a)(4)):

Payment for case management or targeted case management services under the plan does not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

Case Records (42 CFR 441.18(a)(7)):

Providers maintain case records that document for all individuals receiving case management as follows: (i) The name of the individual; (ii) The dates of the case

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management services; (iii) The name of the provider agency (if relevant) and the person providing the case management service; (iv) The nature, content, units of the case management services received and whether goals specified in the care plan have been achieved; (v) Whether the individual has declined services in the care plan; (vi) The need for, and occurrences of, coordination with other case managers; (vii) A timeline for obtaining needed services; (viii) A timeline for reevaluation of the plan.

Limitations:

Case management does not include, and Federal Financial Participation (FFP) is not available in expenditures for, services defined in §441.169 when the case management activities are an integral and inseparable component of another covered Medicaid service (State Medicaid Manual (SMM) 4302.F).

Case management does not include, and Federal Financial Participation (FFP) is not available in expenditures for, services defined in §441.169 when the case management activities constitute the direct delivery of underlying medical, educational, social, or other services to which an eligible individual has been referred, including for foster care programs, services such as, but not limited to, the following: research gathering and completion of documentation required by the foster care program; assessing adoption placements; recruiting or interviewing potential foster care parents; serving legal papers; home investigations; providing transportation; administering foster care subsidies; making placement arrangements. (42 CFR 441.18(c))

FFP only is available for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program except for case management that is included in an individualized education program or individualized family service plan consistent with §1903(c) of the Act. (§§1902(a)(25) and 1905(c))

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H. Specialized Transportation:

Definition: Per 42 CFR §440.170 (a)(1) "Transportation" includes expenses for transportation and other related travel expenses determined to be necessary by the agency to secure medical examinations and treatment for a recipient. This service is limited to transportation of an eligible child to health related services as listed in a recipient's IEP.

Covered Services and Limitations: Specialized transportation is Medicaid reimbursable if:

1. It is provided to a Medicaid eligible EPSDT recipient who is enrolled in an LEA;
2. It is being provided on a day when the recipient receives an IEP health-related Medicaid covered service;
3. The Medicaid covered service is included in the recipient's IEP;
4. The recipient's need for specialized transportation is documented in the child's IEP; and
5. The driver must meet all State and County license and certification requirements.

Each school district is responsible for maintaining written documentation, such as a trip log, for individual trips provided. No payment will be made to, or for parents providing transportation.

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9. **Clinic Services**

Services may be limited by prior authorization.

10. **Dental Services**

Prior Authorization may be required for restorative/replacement procedures. For prior authorization criteria see generally www.wvdhhr/bms/manuals Chapter 505; Dental: sections 505.8, 505.10 and Attachments 1,2 and 3. Dental service limits provided under EPSDT can be exceeded based on medical necessity. Certain emergency dental services are covered for adults, see section 505.7

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4.19 Payments for Remedial Care and Services

Inpatient Hospital Services

8. Private Duty Nursing Services
Payment is based on an hourly rate by skill level; i.e., R.N., LPN, Aide, considering customary charges and rate paid for these services by private insurance, or other state agencies.

9. Clinic Services
Payment for services provided by established clinics may be an encounter rate based on all inclusive costs, or on a fee for the services provided in the clinic. Payment not to exceed that allowed for the services when provided by other qualified providers. Payment for free standing ambulatory surgery center services shall be the lesser of 90% of the Medicare established fee or the provider billed charge.

10. Dental; Services

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4.19 Payments for Medical and Remedial Care and Services

23. Pediatric or Family Nurse Practitioner Services

Payment may not exceed the amount paid to physicians for the service the provider is authorized by State Law to perform, or the provider's customary charge, whichever is less.

For services provided on and after 11.01.94, the following methodology will apply:

An upper limit is established using a resource-based relative value for the procedure times a conversion factor as determined by the type of service. The conversion factors were developed using utilization and payment level data for the defined service group. Payment will be the lesser of the upper limit or the provider's customary charge for the service to the general public.

1. a. Transportation

Payment is made for transportation and related expenses necessary for recipient access to covered medical services via common carrier or other appropriate means; cost of meals and lodging, and attendant services where medically necessary.

Reimbursement Upper Limits:

- (i) Common Carriers (bus, taxi, train or airplane) – the rates established by any applicable regulatory authority, or the provider's customary charge to the general public.
- (ii) Automobile – Reimbursement is computed at the prevailing state employee travel rate per mile.
- (iii) Ambulance – Reimbursement is the lesser of the Medicare geographic prevailing fee of EMS provider charge to the general public as reported on the State Agency survey.
- (iv) Meals - \$5.00 per meal during travel time for patient, attendant, and transportation provider.
- (v) Lodging – At cost, as documented by receipt, at the most economical resource available as recommended by the medical facility at destination.

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PERSONAL CARE

4.19 Payments for Medical and Remedial Care and Services
Methods and Standards for Establishing Payment Rates

26. Personal Care Services

Personal Care services will be reimbursed using a statewide fee-for-service rate schedule based on units of services authorized in the approved plan of care. Payment for Personal Care services under the State Plan will not duplicate payments made to public agencies or private entities under other program authorities for the same purpose. Medicaid will be the payer of last resort. Unless specifically noted otherwise in the plan, the state-developed fee schedule rate is the same for both governmental and private providers. Providers will be reimbursed at the lesser of the provider's usual and customary billed charge or the Bureau for Medical Services (Bureau) fee schedule.

Personal care services are limited on a per unit, per month basis (15 minutes per unit) with all services subject to prior authorization. Individuals can receive up to a maximum of 840 units (210 hours) each month.

Rate Methodology:

Rates for Personal Care services are developed using a market-factor rate-setting model. The model reflects individual service definition, operational service delivery, administrative, capital and technology considerations. The following factors are used in determining the rates:

- **Wage** - Wage data is obtained from the Bureau for Labor Statistics (BLS). The wage is based on two elements consisting of occupation/wage categories reported by BLS and identified by Medicaid staff as comparable to services delivered under the personal care program as well as results of a formal provider survey.
- **Inflation** - The base wage is adjusted by an inflationary factor determined by the percent change in Consumer Price Index (CPI-U, U.S. City: All Items 1982-84 = 100) from base period 2009 to current rate period.
- **Payroll Taxes** - The payroll taxes factor represents the percentage of the employer's contribution to Medicare, Social Security, workers' compensation and unemployment insurance.
- **Employee Benefits** - The employee benefits factor represents the percentage of employer's contribution to employee health insurance and retirement benefits. The employee benefit factor varies by employee type. This factor is discounted to reflect the Medicaid agency's share of cost based on the Medicaid payer mix.
- **Allowance for Administrative Costs** - The allowance for administrative costs factor represents the percentage of service costs that results from non-billable administrative activities performed by direct care staff and services provided by employer administrative support and executive staff. This factor is discounted to the Medicaid payer mix as determined by provider survey conducted in 2010 and 2011.
- **Allowance for Transportation Costs** - The allowance for transportation costs factor represents an allowance for average travel time by the provider as indicated by the provider survey.
- **Allowance for Capital and Technology** - The allowance for capital and technology factor represents weighting of various income and balance sheet account information and provider survey data to calculate a capital and technology cost per dollar of employee wages. This factor is discounted to reflect the Medicaid agency's share of cost based on the Medicaid payer mix.
- **Room and Board** - Room and Board shall not be a component used in developing the rate methodology.

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REIMBURSEMENT TO SCHOOL-BASED SERVICE PROVIDERS:

A. Reimbursement Methodology for School-Based Service Providers

Reimbursement to Local Education Agencies (LEAs) for School-Based Service Providers is based on a cost based methodology.

Medicaid Services provided by School-Based Service Providers are services that are medically necessary and provided to Medicaid recipients by LEAs in accordance with an Individualized Education Program (IEP) under the Individuals with Disabilities Education Act (IDEA):

1. Audiology and Speech-Language Pathology Services
2. Occupational Therapy Services
3. Physical Therapy Services
4. Psychological Services
5. Nursing Services
6. Personal Care Services
7. Targeted Case Management Services
8. Specialized Transportation

Providers will be paid interim rates based on historical cost data for school-based direct medical services. For the initial periods covered by this SPA the interim rate will be based on the current rates for school based health services until sufficient cost data has been collected through the annual cost report process to establish revised interim rates. Annually, provider specific cost reconciliation and cost settlement processes will occur to identify and resolve all over and under payments.

B. Direct Medical, Personal Care Services, and Targeted Case Management Payment Methodology

Effective for dates of service on or after July 1, 2013, the Bureau for Medical Services (BMS) will institute a cost based payment system for all School-Based Service Providers. As a cost based methodology, this system will incorporate standard cost based components: payment of interim rates; a CMS approved Random Moment Time Study (RMTS) approach for determining the allocation of direct service time; a CMS approved Annual Cost Report based on the State Fiscal Year (June 30 end); reconciliation of actual incurred costs attributable to Medicaid with interim payments; and a cost settlement of the difference between actual incurred costs and interim payments.

To determine the allowable direct and indirect costs of providing medical services to Medicaid-eligible clients in the LEA, the following steps are performed on those costs pertaining to each of

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the three cost pools; direct services, personal care services, and targeted case management services:

- 1) Direct costs for medical services include unallocated payroll costs and other unallocated costs that can be directly charged to medical services. Direct payroll costs include the total compensation (i.e. salaries and benefits) to the service personnel identified for the provision of health services listed in the description of covered Medicaid services delivered by LEAs.

Other direct costs include costs related to the approved service personnel for the delivery of medical services, such as materials, supplies and equipment and capital costs such as depreciation and interest. Only those materials, supplies, and equipment that have been identified and included in the approved BMS Medicaid cost reporting instructions are allowable costs and can be included on the Medicaid cost report.

Total direct costs for medical services are reduced on the cost report by any credits, adjustments or revenue from other funding sources resulting in direct costs net of federal funds.

- 2) The net direct costs for each service category are calculated by applying the direct medical services percentage from the approved time study to the direct costs from Item 1 above.

The RMTS incorporates a CMS approved methodology to determine the percentage of time medical service personnel spend on IEP related medical services, and general and administrative time. This time study will assure that there is no duplicative claiming of administrative costs.

- 3) Costs incurred through the provision of direct services by contracted staff are allowable costs net of credits, adjustments or revenue from other funding sources. This total is then added to the net direct costs identified in Item 2 above.
- 4) Indirect costs are determined by applying the LEA's specific unrestricted indirect cost rate to its net direct costs identified in Item 3 above. West Virginia LEAs use predetermined fixed rates for indirect costs. The West Virginia Department of Education is the cognizant agency for LEAs, and approves unrestricted indirect cost rates for LEAs for the United States Department of Education. Only allowable costs are certified by LEAs.
- 5) Net direct costs, from Items 2 and 3 above, and indirect costs from Item 4 above are combined.

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- 6) Medicaid's portion of total net costs is calculated by multiplying the results from Item 5 above by the cost pool specific IEP ratio. West Virginia LEA's use a different IEP ratio for each of three service type cost pools, including direct services, personal care services, and targeted case management services. For direct services the numerator will be the number of Medicaid IEP students in the LEA who have an IEP with a direct medical service outlined in their IEP and the denominator will be the total number of students in the LEA with an IEP with a direct medical service outlined in their IEP. For personal care services the numerator will be the number of Medicaid IEP students in the LEA who have an IEP with a personal care service outlined in their IEP and the denominator will be the total number of students in the LEA with an IEP with a personal care service outlined in their IEP. For targeted case management services the numerator will be the number of Medicaid IEP students in the LEA who have an IEP with a targeted case management service outlined in their IEP and the denominator will be the total number of students in the LEA with an IEP with a targeted case management service outlined in their IEP.

C. Specialized Transportation Payment Methodology

Effective for dates of services on or after July 1, 2014, providers will be paid on a cost basis. Providers will be paid interim rates based on historical cost data for specialized transportation services. For the initial periods covered by this SPA the interim rate will be based on the current rates for school based health services until sufficient cost data has been collected through the annual cost report process to establish revised interim rates. Annually, provider specific cost reconciliation and cost settlement processes will occur to identify and resolve all over and under payments.

Specialized transportation is allowed to or from a Medicaid covered direct IEP service which may be provided at school or other location as specified in the IEP. Transportation may be claimed as a Medicaid service when the following conditions are met:

1. Specialized transportation is specifically listed in the IEP as a required service;
2. The child required specialized transportation in a vehicle that has been modified as documented in the IEP; and
3. The service billed only represents a one-way trip; and
4. A Medicaid IEP medical service (other than transportation) is provided on the day that special transportation is billed

Transportation costs included on the cost report worksheet will only include those personnel and non-personnel costs associated with specialized transportation reduced by any federal payments for these costs, resulting in adjusted costs for transportation. The cost identified on the cost report includes the following:

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1. **Personnel Costs** – Personnel costs include the salary and benefit costs for transportation providers employed by the school district. The definitions for allowable salary and benefit costs for transportation services are the same as for direct medical service providers. The personnel costs may be reported for the following staff:
 - a. Bus Drivers
 - b. Attendants
 - c. Mechanics
 - d. Substitute Drivers
2. **Transportation Other Costs** – Transportation other costs include the non-personnel costs incurred in providing the transportation service. These costs include
 - a. Lease/Rental costs
 - b. Insurance costs
 - c. Maintenance and Repair costs
 - d. Fuel and Oil cost
 - e. Contracted – Transportation Services and Transportation Equipment cost
3. **Transportation Equipment Depreciation Costs** – Transportation equipment depreciation costs are allowable for transportation equipment purchased for more than \$5,000.

The source of these costs will be audited general ledger data kept at the LEA level.

LEAs may report their transportation costs as specialized transportation only costs when the costs can be discretely identified as pertaining only to specialized transportation or as general transportation costs when the costs cannot be discretely identified as pertaining only to specialized transportation.

All specialized transportation costs reported on the annual cost report as general transportation costs will be apportioned through two transportation ratios; the Specialized Transportation Ratio and the Medicaid One Way Trip Ratio. All specialized transportation costs reported on the annual cost report as specialized transportation only will only be subject to the Medicaid One Way Trip Ratio.

- a. **Specialized Transportation Ratio** – The Specialized Transportation Ratio is used to discount the transportation costs reported as general transportation costs by the percentage of Medicaid eligible IEP students receiving specialized transportation services. This ratio ensures that only the portion of transportation expenditures related to the specialized transportation services for Medicaid eligible students are included in the calculation of Medicaid allowable transportation costs.

The Specialized Transportation Ratio will be calculated based on the number of Medicaid eligible students receiving specialized transportation services in the school district. The numerator for the ratio will be the total number of Medicaid eligible IEP students receiving

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specialized transportation services. The denominator for this ratio will be the total number of all students receiving transportation services. The data for this ratio will be based on the same point in time as is used for the calculation of the IEP ratio.

The Specialized Transportation Ratio is defined by the following formula:

Numerator = Total number of Medicaid eligible students receiving Specialized Transportation services per their IEP

Denominator = Total number of all students receiving transportation services

An example of how the Specialized Transportation Ratio will be calculated is shown below:

Specialized Transportation Ratio	
Total Number of Medicaid Eligible Students Receiving Specialized Transportation Services per their IEP	100
Total Number of ALL Students Receiving Transportation Services (Specialized or Non-Specialized)	1,500
	7%

- b. **Medicaid One Way Trip Ratio-** An LEA-specific Medicaid One Way Trip Ratio will be established for each participating LEA. When applied, this Medicaid One Way Trip ratio will discount the transportation costs by the percentage of Medicaid IEP one way trips. This ratio ensures that only Medicaid allowable transportation costs are included in the cost settlement calculation.

The Medicaid One Way Trip Ratio will be calculated based on the number of one way trips provided to students requiring specialized transportation services per their IEP. The numerator of the ratio will be based on the Medicaid paid one way trips for specialized transportation services as identified in the state's MMIS data. The denominator will be based on the school district transportation logs for the number of one-way trips provided to Medicaid eligible students with specialized transportation in the IEP. The denominator should be inclusive of all one way trips provided to students with specialized transportation in their IEP, regardless of whether the trip qualified as Medicaid specialized transportation or not. The data for this ratio will be based on the total number of trips for the entire period covered by the cost report, i.e. all one way trips provided between July 1 and June 30.

The Specialized Transportation Ratio is defined by the following formula:

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Numerator = Total Medicaid paid one way trips for specialized transportation services per MMIS

Denominator = Total one way trips for Medicaid eligible students with specialized transportation in their IEP (from bus logs)

An example of how the Specialized Transportation Ratio will be calculated is shown below:

Medicaid One Way Trip Ratio	
Total Number of Paid Medicaid One Way Trips for Specialized Transportation Services (per MMIS)	250
Total Number of ALL One Way Trips for Medicaid Eligible Students with Specialized Transportation in their IEP (per bus logs)	600
	42%

D. Annual Cost Report Process

Each provider will complete an annual cost report for all school-based services delivered during the previous state fiscal year covering July 1 through June 30. The cost report is due on or before December 31st of the same year of the reporting period. The primary purposes of the cost report are to:

1. Document the provider's total allowable costs for delivering services by School-Based Service Providers, including direct costs and indirect costs, based on cost allocation methodology procedures; and
2. Reconcile interim payments to total allowable costs based on cost allocation methodology procedures.

All filed annual Cost Reports are subject to a desk review.

E. Certification of Funds Process

On an annual basis, each LEA will certify through its cost report its total actual, incurred allowable costs/expenditures, including the federal share and the nonfederal share.

F. The Cost Reconciliation Process

The total allowable costs based on cost allocation methodology procedures are compared to the provider's Medicaid interim payments for school-based service providers during the reporting period as documented in the Medicaid Management Information System (MMIS), resulting in a cost reconciliation. West Virginia will complete the review of the cost settlement within a

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reasonable time following the submission of the annual cost reports and the completion of all interim billing activities by the providers for the period covered by the cost report.

G. The Cost Settlement Process

For services delivered for a period covering July 1st through June 30th, the annual School Based Service Providers Cost Report is due on or before December 31st of the same year.

If a provider's interim payments exceed the actual, certified costs of the provider for school-based services to Medicaid clients, the provider will return an amount equal to the overpayment.

If the actual, certified costs of a provider for school-based services exceed the interim Medicaid payments, BMS will pay the federal share of the difference to the provider in accordance with the final actual certification agreement and submit claims to the CMS for reimbursement of that payment.

BMS shall issue a notice of interim settlement that denotes the amount due to or from the provider. West Virginia will process the interim settlement within 6 to 12 months following the submission of the annual cost reports. BMS shall also issue a notice of final settlement that denotes the final amount due to or from the provider upon completion of the final cost reconciliation. The final settlement will be issued within 24 months following the final submission of the annual cost reports.

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Department of Health and Human Services
DEPARTMENTAL APPEALS BOARD
Appellate Division

West Virginia Department of Health and Human Resources
Docket No. A-13-31
Decision No. 2536
September 20, 2013

DECISION

The West Virginia Department of Health and Human Resources (West Virginia or State) appeals a November 21, 2012 determination by the Centers for Medicare & Medicaid Services (CMS) to disallow \$22,806,230 in federal financial participation (FFP). The State sought that FFP for payments that its Medicaid program made for certain school-based health services (SBHS) furnished to Medicaid-eligible children during state fiscal years (SFYs) 2001, 2002, and 2003.

West Virginia's Medicaid program pays for SBHS using per-unit rates (*e.g.*, dollars per student encounter) that, in turn, are based on school districts' costs of providing the covered services. Initially, the State's payment rates for SBHS, and corresponding FFP claims for SFYs 2001 through 2003, reflected only the school districts' salary and fringe benefit expenses. Later, the State increased the rates for those years to reflect two additional categories of school district costs ("operating" and "indirect costs"), made additional payments to the school districts based on the rate increases, and claimed FFP for the additional payments.

The basis for CMS's disallowance is a finding by the Department of Health & Human Services (HHS) Office of Inspector General (OIG) that West Virginia violated its approved Medicaid plan by including operating and indirect costs in its calculation of SBHS payment rates. We conclude, however, that the adjustment of SBHS rates for SFYs 2001 through 2003 in order to reflect those costs, and the claiming of FFP based on the adjusted rates, were authorized by West Virginia's Medicaid plan and consistent with the State's reasonable interpretation of that plan. For that reason, we reverse the disallowance in its entirety.

... program created under title XIX of the Social Security Act (Act), federal financial assistance is available to states that provide health care to persons with low income and resources. Act §§ 1901, 1902(a)(10); 42 C.F.R. § 430.0. Within constraints established by title XIX (and its corresponding regulations), states that participate in Medicaid have considerable flexibility to determine program eligibility, the scope of covered health benefits, and payment levels for medical services. 42 C.F.R. § 430.0.

In order to participate in Medicaid, a state must have a "State plan" that is approved by the Secretary of Health & Human Services (Secretary). Act § 1901. A State plan is a "comprehensive written statement . . . describing the nature and scope" of a state's Medicaid program and "giving assurance that it will be administered in conformity with the specific requirements of title XIX," the regulations implementing that title, and other "applicable official issuances" of the Secretary. 42 C.F.R. § 430.10. In general, a State plan must specify or describe the healthcare services covered under the state's Medicaid program, the groups of persons eligible for coverage, and "the policy and the methods to be used in setting payment rates for each type" of covered service. *See* Act § 1902(a)(10); 42 C.F.R. §§ 430.12(a), 435.10(b), and 447.201(b) (citation for the quoted passage).

A state with an approved State plan is eligible to receive federal matching funds, also known as FFP, for "medical assistance under the State plan."² Act § 1903(a)(1). "Medical assistance" is defined in the Medicaid statute to mean the state's payments for covered "care and services." *Id.* § 1905(a). Medical assistance may include a state's payments for healthcare services provided by public school employees to Medicaid-eligible children. *See Texas Health and Human Servs. Comm.*, DAB No. 2187, at 2 (2008). In order to be eligible for FFP, a state's payments for covered healthcare services

The current version of the Social Security Act can be found at <http://www.socialsecurity.gov/OP-Home/ssact/ssact.htm>. Each section of the Act on that website contains a reference to the corresponding United States Code chapter and section.

² Payments for certain services that fall within the definition of Early and Periodic Screening, Diagnostic and Treatment (EPSDT) are eligible for FFP regardless of whether they are specified in the State plan. *See* Act § 1905(r)(5) (providing that the EPSDT benefit covers "[s]uch other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan"). In general, the EPSDT benefit covers comprehensive diagnostic, prevention, and treatment services that are provided to Medicaid-eligible children who are under 21 years of age. Act §§ 1905(a)(4)(B), 1905(r); *Texas Health & Human Servs. Comm.*, DAB No. 2235, at 2-3 (2009).

The State asserts that it has always interpreted SPA 00-01 as (1) authorizing payment for SBHS based on school districts' operating and indirect costs and (2) permitting a retrospective adjustment of SBHS rates to include such costs. The amendment's text does not rule out either element of that interpretation. Regarding the first element, SPA 00-01 does not, as we earlier noted, specify the categories of costs that may (or must) be reflected in the rates. The amendment states that costs must be "actual" and "reasonable," but neither of those limitations excludes operating and indirect costs by definition or implication. Including operating and indirect costs is consistent with federal cost principles for grants to state and local governments in OMB Circular A-87.¹⁶ See 2 C.F.R. Part 225, Att. B, ¶¶ 25, 26, & 37 (identifying various cost items as allowable, including "[m]aterials and supplies," building and equipment rental, and maintenance and repair) & Att. A, ¶ D.1 (indicating that the "total cost" of a federal award includes "an allocable portion of allowable indirect costs"); cf. *Medicare Provider Reimbursement Manual*, CMS Pub. 15-1 (setting out principles of "reasonable cost" reimbursement for the Medicare program and defining "reasonable cost" in section 2102.1 (of Part 1) as "tak[ing] into account both direct and indirect costs of providers of services" and further stating that the "intent of the [Medicare] program" is that "providers are reimbursed the actual costs of providing high quality care"). Furthermore, the State introduced evidence, not rebutted by CMS, that its interpretation of SPA 00-01 is consistent with its interpretation or implementation of other (non-SBHS) cost-based payment provisions to capture a Medicaid provider's *total* actual costs of providing a service. See WV Ex. 23, ¶¶ 8-11 (stating that "[i]t has always been [the State's] practice to capture full allowable incurred costs, including operating and indirect costs, during cost settlement in order to reimburse the total, actual costs of providing Medicaid services that are reimbursed on a cost basis"). The State's cost reimbursement practices in these other areas support the State's interpretation of the cost-based reimbursement provision in SPA 00-01. Cf. *New York Dept. of Social Servs.*, DAB No. 151, at 7, 9 (1981) (holding that it was "appropriate to look to relevant State law and practices" to assess the reasonableness of the State's view about whether the State plan permitted a "fee schedule" to be adjusted retroactively in order to recognize categories of costs that had been omitted from the original fee schedule amounts).

As for the second element of the State's interpretation, it is consistent with the retrospective rate methodology authorized by SPA 00-01, which permits retroactive adjustment of SBHS rates but places no limit in the scope of the adjustment (other than that supporting costs be "actual" and "reasonable"). The "cost settlement" language in

¹⁶ CMS does not dispute that operating and indirect costs reflected in the State's payments for SBHS for SFYs 2001 through 2003 were actually incurred to provide those services, nor does it contend that those costs were not "reasonable" under applicable principles for determining allowable costs.

SPA 00-01 was included at CMS's insistence, yet CMS failed to produce contemporaneous evidence that the language's intended meaning is anything other than what the State contends it means. CMS has also failed to establish that the State violated any accepted cost settlement principles in determining final SBHS payment rates.

Not only is the State's interpretation consistent with applicable State plan language, it is reasonable in light of the circumstances surrounding the development and use of the initial interim rates. The State presented un rebutted evidence that it had always intended to base its SBHS rates on *total* statewide costs of providing SBHS, an intention that is not inconsistent with the amendment's open-ended language (permitting the inclusion of costs "not to exceed" actual and reasonable costs) and with the State's administration of other cost-based payment methodologies. *See* WV Ex. 23, ¶¶ 9-10, 12. However, when the State developed the initial interim rates, it did not have "historical cost experience" regarding any of the school-based services that it intended to cover under SPA 00-01. CMS Ex. 8, ¶ 6; WV Ex. 4, at 4 (indicating that the rates reflected "data for which reimbursement occurs today"). Not until late 2002 or 2003 did the State have a management information system in place (namely, the WVEIS) that was capable of "extract[ing] the necessary elements to determine total SBHS costs and develop rates that reflected total costs." WV Ex. 23, ¶ 12. Only then was the State able to obtain complete and reliable cost data relevant to the services covered by SPA 00-01. Under these circumstances, the State was not unreasonable in waiting until it had amassed adequate cost experience with respect to the newly covered SBHS before attempting to incorporate operating and indirect costs into the applicable payment rates.

It is true that the State did not include any estimate or placeholder to reflect future inclusion of operating and indirect costs in developing the initial interim rates. The State explains that the absence of prior experience and data in 1999 and 2000, and an abundance of caution in avoiding any excess interim payments that might lead to a disallowance later, led it to "conservatively" calculate its initial interim rates (*see* WV Ex. 23, ¶ 7). This approach had the effect of causing the rates to understate total actual costs, but we do not view this decision as evidencing a commitment by the State not to include total actual costs in calculating reimbursement rates as it generally does in implementing other cost-based reimbursement methodologies once the relevant data became available.

In *New York Department of Social Services*, the Board considered whether Medicaid payments to publicly operated intermediate care facilities for the mentally retarded (ICF/MRs) – payments based on an annual "fee schedule" – could be retroactively increased in order to account for types of costs that were not included in the calculation of the fee schedule payment rates (as well as to correct for an annual six-month lag in applying newly established fee schedule rates). DAB No. 151, at 4-6. In accordance with New York law, fee schedule amounts were intended to capture "the actual costs incurred" by ICF/MRs to provide their Medicaid-covered services. *Id.* at 7. New York explained, however, that its fee schedules for ICF/MR were developed using cost

estimates and projections of service utilization rather than “actual allowable costs and actual patient days.” *Id.* at 7. During the relevant period, New York had a statute which required that fee schedules be based “on the costs of services, care, treatment, maintenance, overhead, and administration” and authorized the relevant state agency to establish rates “which assure maximum recovery of such costs.” *Id.* at 3. New York’s State plan did not indicate whether retroactive payment adjustments were permitted; it merely stipulated that the method of reimbursement for ICF/MRs would be a “fee schedule.” *Id.* at 2. The Board concluded that there was nothing in federal or state law or in the record that “exclude[d] the possibility of retroactive adjustment” of fee schedule amounts, and it further found that “given the State statutory requirements,” it would be “illogical to assume that the State would deliberately set up a reimbursement methodology that would not capture all possible allowable costs.” *Id.* at 7, 9.

Like New York’s fee schedule payment system for ICF/MRs, SPA 00-01 contemplated that providers (that is, school districts) would ultimately receive reimbursement for Medicaid-covered services based upon the actual costs incurred to provide those services. And while New York had a statute that permitted the relevant state agency to establish fee schedule payments that assured “maximum recovery” of costs, West Virginia had – and still has – a statute (enacted in 1990) that *requires* it to “maximize federal reimbursement” for the Medicaid-covered services in question, W.Va. Code § 18-2-5b(a),¹⁷ and that also requires the creation of a “school health services advisory committee” whose mission is to advise the State on ways “to ensure that the school-based medicaid service providers bill for and receive “*all the medicaid reimbursement to which they are entitled,*” *id.* § 18-2-5b(b) (italics added). Finally, like New York, West Virginia did not have complete, reliable cost information when it initially set payment rates for the covered services and was able to acquire that information only after providers had actually incurred costs to provide the services. For these reasons, we find that the State acted reasonably to include previously unidentified – but otherwise allowable – categories of costs in its final SBHS rates, just as the Board found New York reasonably made retroactive adjustments to account for costs not reflected in its fee schedules.

¹⁷ Section 18-2-5b(a) of the West Virginia code provides:

The state board [of education] shall become a medicaid provider and seek out medicaid eligible students for the purpose of providing medicaid and related services to students eligible under the medicaid program and to maximize federal reimbursement for all services available under the Omnibus Budget Reconciliation Act of one thousand nine hundred eighty-nine [Pub. L. No. 101-239], as it relates to medicaid expansion and any future expansions in the medicaid program for medicaid and related services for which state dollars are or will be expended[.]

Among other things, the 1989 federal law cited in this provision strengthened the Medicaid coverage available to children under the EPSDT benefit. Pub. L. No. 101-239, § 6403, 103 Stat. 2262 (1989).

In short, we conclude that the State's interpretation of SPA 00-01 is reasonable and entitled to deference and reject CMS's arguments to the contrary. CMS asserts that its approval of SPA 00-01 was "based on the SBHS methodology West Virginia had submitted to CMS" in its February 2000 slide presentation. Response Br. at 12. Pointing to the title of the presentation ("Calculation of Final Rates for Special Education Medicaid Reimbursable Services"), CMS asserts that the State identified its "final" SBHS rates – rates that reflected only salaries and fringe benefits – then made payments and claimed FFP based on those rates for almost three years afterward. *Id.* According to CMS, the February 2000 presentation and use of the rates consistent with that presentation as initial interim rates "are evidence that West Virginia historically interpreted its State Plan to include only the costs of salaries and fringe benefits for SBHS." *Id.* CMS asserts that the State's current interpretation of SPA 00-01 is inconsistent with that historical interpretation and for that reason deserves no deference. *Id.* at 18.

The trouble with this argument is that, notwithstanding the use of the word "final" in the slide presentation's title, the February 2000 rates were not, in fact, "final" under the State plan. CMS approved SPA 00-01 shortly after the slide presentation, but the actual language of the state plan amendment does not use the word "final" or refer to any specific formula for setting final rates. Furthermore, the slide presentation itself states that the analysis done for rate development was limited but that "any refinement of existing rates will occur in the next phase of the project." WV Ex. 4, at 4. Thus, CMS could not have concluded that no further changes could occur. Instead, the amendment plainly indicates that, for a given cost period, the State would initially pay for SBHS services based on "interim" rates subject to retrospective adjustment. Although SPA 00-01 may have been unclear about the nature and scope of the State's cost settlement authority, the State retained considerable discretion and flexibility to decide how to finalize its SBHS payment rates for SFYs 2001 through 2003 and what types of costs to include in calculating those rates. The actions taken by the State in 2003 in response to PCG's recommendation represented the State's **initial** exercise of that discretion based on actual cost experience for the seven school-based services covered by SPA 00-01. Therefore, we agree with the State that the most relevant evidence of the State's understanding or interpretation of SPA 00-01 are its efforts in 2003 and 2005 to finalize SBHS rates for SFYs 2001 through 2003. *Cf. Texas Health and Human Servs. Comm.*, DAB No. 2176, at 11 (stating that "a state does not violate or act inconsistently with its state plan merely because it exercises discretion conferred by the plan"). Focusing on the State's actual cost settlement practices during those years is appropriate because "[u]nder a retrospective system, . . . what is ultimately considered expended in accordance with the state plan . . . is determined by the state plan rate-setting methodology for establishing final rates." *District of Columbia Dept. of Human Servs.*, DAB No. 1617, at 27 n.12 (1997).

There is no dispute that, from the first determination of final rates under SPA 00-01, the State incorporated operating and indirect costs into the SBHS rate calculations, that the interim rates established thereafter consistently included those costs and that the actual amounts of those costs were included in reconciliation of all subsequent final cost settlements. WV Ex. 23, ¶¶ 19-20, 24. These circumstances constitute relevant evidence of the State's historical interpretation of SPA 00-01. Thus, we reject CMS's contention that the payment rate adjustments to include those costs for SFYs 2001 through 2003 were inconsistent with that interpretation.

CMS asserts that the retrospective adjustments of the SBHS rates for SFYs 2001 through 2003 were not, in fact, "cost settlements" reflecting "the difference between estimates and settled actual costs" but, rather, an "attempt to add two entirely new categories of costs – operating and indirect costs – at the direction of PCG outside of the annual cost settlement process."¹⁸ Response Br. at 20. However, the State plan is silent about how the final "cost-settled" rates would be calculated, and CMS presented no evidence that the State's cost settlement process deviated from some normal or typical process for settling costs of school-based providers. We also agree with the State that "[t]he non-restrictive language of the State Plan is broad enough to encompass a cost settlement process that updates SBHS rates to include cost information," such as the cost data relating to the newly covered school-based services, "that was not readily available when interim rates were developed." Reply Br. at 15. The initial interim rates were based purely on cost estimates not derived from any actual or historical cost experience relating to the services covered by SPA 00-01. In contrast, the rate adjustments proposed by PCG and implemented in 2003 were based on actual cost experience (from SFY 2001) relating to those covered services.

CMS contends that the Board "specifically found" in the State's prior disallowance appeal "that the adjustments at issue here were not consistent with the concept of 'cost settlement' as that term is usually understood" and were "inconsistent with" and "not contemplated by" the payment methodology laid out in SPA 00-01. Response Br. at 10-11, 13-14, 20 (*quoting* DAB No. 2365, at 8). CMS asserts that these prior findings "largely determine[] the ultimate issue in the instant case" *Id.* at 10-11. We find this argument to be without merit. The Board's previous findings were made in support of its resolution of an entirely different legal issue. The "sole question before [the Board]" in the State's prior appeal was whether a disallowed FFP claim based on an adjustment to the State's *interim* SBHS rates to include additional estimated costs met the regulatory definition of an "adjustment to prior year costs," and, therefore, fell within an exception to the timely claims provision. DAB No. 2365, at 6. The Board has held

¹⁸ We see no significance in the role that PCG played in the cost settlement process. The validity of the adjustments stands or falls on the reasonableness of the State's interpretation of SPA 00-01 and whether the actions and calculations supporting the supplemental FFP claims are consistent with that interpretation.

that, to constitute an “adjustment to prior year costs” for purposes of the exception, an adjustment must be consistent with the state plan methods and procedures for determining rates. The untimely adjustments to the interim SBHS rates did not meet that test. The State did not show that the concept of “cost settlement” in its State plan would have put CMS on notice that entirely new categories of costs excluded from the interim rates might be added to the calculation of rates years later. Such a difference in how rates are calculated is not merely the unavoidable consequence of making interim payments based on estimates that must later be reconciled when actual costs are calculated.

In contrast, the dispositive legal issue in this case is whether the State could, consistent with a reasonable interpretation of its state plan, revise the costs included in its rate calculations based on its evolving experience and collection of actual cost data. What is significant here is that the State included the actual operating and indirect costs the first time the State calculated any final SBHS rates based on actual costs from the relevant cost reporting period. While the change in the categories of costs on which the rate is calculated was not merely an inevitable part of the usual cost settlement process for retroactive payment systems nor expressly contemplated in the state plan language, we do not find anything in the state plan that precluded the state from making such a change going forward. The fact that it did make this change from its first opportunity and did so consistently in all its later rate calculations convinces us that the change reflected a reasonable interpretation of the state plan. Also, the State timely claimed the expenditures resulting from the corresponding adjustments to the interim rates for later periods, so it did not need to show that an exception to the timely claims provisions applied.

We also find CMS’s contention that this case is factually indistinguishable from the circumstances in *Colorado Department of Health Care and Policy Financing* to be without merit. In that case, CMS approved a 1997 State plan amendment which stated that SBHS payment rates would be determined “according to Department formula.” DAB No. 2057, at 3. The amendment did not specify the formula, but two years later, in a September 10, 1999 letter, Colorado’s Medicaid agency proposed a formula and asked CMS to approve it. *Id.* Although the formula was never approved by CMS or incorporated into Colorado’s Medicaid plan, Colorado continued to use the formula for the next four to five years to calculate its Medicaid payment rates for SBHS. *Id.* at 3-5, 13. Then, in 2005, the state Medicaid agency unilaterally made various changes to the formula, such as “including additional costs and changing some of the algebraic processes.” *Id.* at 4, 10. Based on those changes, Colorado recalculated its SBHS payment rates for 2003 and 2004 and submitted FFP claims for the additional payments that resulted from the rate recalculations. *Id.* at 4. CMS disallowed those claims, and the Board upheld the disallowance. *Id.* at 4-6. The Board found that the formula that Colorado had proposed in September 1999, coupled with the use of that formula to claim FFP for SBHS, were “evidence of Colorado’s historical interpretation and application of”

the 1997 State plan amendment. *Id.* at 6. The Board also found that the “retroactive” FFP claims for 2003 and 2004 were “based on a methodology . . . not described in the” 1997 State plan amendment, were “not consistent with Colorado’s interpretation” of the amendment, and were unallowable for those reasons.¹⁹ *Id.* at 9.

A material difference between *Colorado* and the appeal now before us is that unlike the State plan amendment in Colorado, SPA 00-01 established a retrospective payment methodology that expressly authorized SBHS payment rate adjustments based on more complete data about actual costs. In *Colorado*, the disallowance and the Board’s decision were based in part on the fact that the relevant State plan amendment did not provide for retrospective adjustment of SBHS payment rates. DAB No. 2057, at 5, 16. Another important difference is that, unlike Colorado, West Virginia did not deviate from a specific rate formula that it identified as the State-plan-authorized payment methodology. The State plan amendment in *Colorado* expressly stated that SBHS rates would be calculated according to a “formula” which Colorado would (and did) later specify. SPA 00-01, on the other hand, did not specify or even refer to a “formula” for calculating SBHS costs; it merely stated that SBHS would be paid under an interim rate that would be later be subject to retrospective adjustment during a cost settlement process whose contours were left to the State to define. For these reasons, we conclude that *Colorado* does not dictate the outcome here.

Finally, CMS contends that the inclusion of operating and indirect costs in the calculation of SBHS payment rates for SFYs 2001 through 2003 constituted a “material modification” to the SBHS rate methodology that required amendment of the State plan in order to become effective. Response Br. at 15-16. In support of that assertion, CMS relies on 42 C.F.R. § 430.12(c)(ii), which says that a State plan “must provide that it will be amended whenever necessary to reflect . . . [m]aterial changes in State law, organization, or policy, or in the State’s operation of the Medicaid program.” *Id.*

We disagree that the State was obligated to amend its State plan to permit the inclusion of operating and indirect costs in its SBHS rates. SPA 00-01 expressly authorized the State to finalize its cost-based “interim” rates, subject only to the requirements that the rates be based on “actual” and “reasonable” costs. The recalculation of SBHS rates to include operating and indirect costs was part of the State’s effort to finalize those rates for SFYs 2001 through 2003 to reflect the actual costs incurred. We have concluded that the State’s implementation of its cost settlement authority for those years constituted its

¹⁹ The Board stated that it gave no deference to Colorado’s interpretation of the 1997 State plan amendment as permitting the 2005 revisions to the SBHS rate methodology because the interpretation was, in the Board’s view, inconsistent with Colorado’s “prior interpretation” of the amendment “as evidenced by its letter of September 10, 1999 and its prior administrative practice” of applying the formula specified in that letter. DAB No. 2057, at 10.

historical interpretation of SPA 00-01. Because the disputed rate recalculations do not violate the express terms of SPA 00-01 and are consistent with the State's reasonable interpretation of that amendment, they cannot fairly be characterized as a "material change" in State law, organization, policy, or program operation.

Conclusion

For the reasons discussed above, the Board reverses CMS's November 21, 2012 disallowance of \$22,806,230 for the period October 1, 2001 through September 30, 2003.

_____/s/
Judith A. Ballard

_____/s/
Leslie A. Sussan

_____/s/
Stephen M. Godek
Presiding Board Member

West Virginia Legislature
Legislative Select Committee on Veterans' Affairs

Senate Members

Senator Kent Leonhardt, Co-Chair
Senator Donna Boley
Senator Bob Ashley
Senator Doug Facemire
Senator Dave Sypolt
Senator Jack Yost

House Members

Delegate Josh Nelson, Co-Chair
Delegate Roy Cooper
Delegate David Evans
Delegate Barbara Fleischauer
Delegate Linda Longstreth
Delegate Ruth Rowan
Delegate Ryan Weld

The West Virginia Legislature's Select Committee on Veterans' Affairs, having been appointed by the Joint Committee on Government and Finance, met on several occasions during the 2015-2016 Legislative Interim period to receive testimony and information to accomplish the duties and responsibilities as established by the Joint Committee on Government and Finance.

The Legislative Select Committee on Veterans' Affairs invited the following individuals to appear before the committee to offer their expertise and testimony:

GEN James Hoyer, Adjutant General, West Virginia National Guard

GEN Hoyer presented information to the committee regarding the current status and programs within the West Virginia National Guard.

Secretary Rick Thompson, Cabinet Secretary, West Virginia Department of Veterans' Assistance

Secretary Thompson presented information to the committee regarding various projects within the Department of Veterans' Assistance.

MAJ Richard Switzer, Chief of Weapons and Tactics, West Virginia National Guard

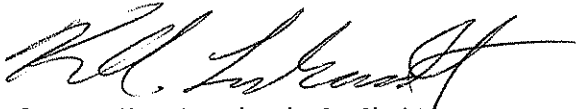
MAJ Switzer presented information to the committee regarding the need for Federal funding to upgrade the technology in the West Virginia Air National Guard's fleet of aircraft.

The committee considered a resolution urging the United States Congress to provide funding for the West Virginia National Guard to sustain and enhance its capabilities in its role in a regional catastrophe and to modernize the antiquated avionics of its fleet of C130s and other aircraft.

The resolution was adopted and will be reported to the Joint Committee on Government and Finance with the recommendation that it be introduced to and adopted by the full Legislature.

The committee considered and recommended this report be presented to the Joint Committee on Government and Finance.

Respectfully submitted,



Senator Kent Leonhardt, Co-Chairman



Delegate Josh Nelson, Co-Chairman

