

LEGISLATIVE SPECIAL REPORT

ACCIDENTS IN STATE OWNED VEHICLES

FOR THE PERIOD JULY 1, 2004 - JUNE 30, 2009

REPORT OVERVIEW

The State lacks a centralized monitoring system for accidents occurring in State-owned vehicles

Many State agencies have no procedures or policies for monitoring State-owned vehicles

There is considerable variation in the specifics and the extent of enforcement of vehicle accident monitoring procedures



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The Joint Committee on Government and Finance:

The objectives of this special report were (1) to determine if the agencies of the State, have developed and implemented procedures for reviewing vehicle accidents involving State-owned vehicles; and (2) to determine if the agencies of the State, have developed and implemented disciplinary measures for situations where employees exhibit poor driving performance or demonstrate unsafe or careless behavior while operating a State-owned vehicle as a means to limit the number of accidents and, as a consequence, maintain relatively lower costs for insurance rates and vehicle repairs.

In order to achieve the objectives noted above, we performed the following:

- a. Reviewed applicable sections of the West Virginia Code, Legislative Rules, as well as other rules and regulations, policies and procedures related to the leasing, the use and the oversight responsibilities of State-owned vehicles;
- b. Conducted interviews with various agencies, the Department of Administration's Fleet Management Office and the Board of Risk and Insurance Management (BRIM) personnel to determine how vehicle accidents were monitored;
- c. Reviewed police crash reports, BRIM loss reports and agencies' files documenting vehicle accidents that occurred during the period of July 1, 2004 through June 30, 2009.

The period covered in this special report was July 1, 2004 through June 30, 2009. We conducted our special report in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Our review of survey results disclosed certain findings, which are detailed in this report. The agencies' responses to the report findings are included in the report.

Respectfully submitted,

A handwritten signature in blue ink that reads "Stacy L. Sneed".

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

SPECIAL REPORT ON ACCIDENTS IN STATE OWNED VEHICLES
July 1, 2004 – June 30, 2009

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SPECIAL REPORT ON ACCIDENTS IN STATE OWNED VEHICLES
July 1, 2004 – June 30, 2009

EXECUTIVE SUMMARY

Finding 1 **Failure to Implement Policies and Procedures Related to the Oversight of Vehicle Crashes Occurring In State-Owned Automobiles**

During our research for this special report, we found no consistency between State agencies in their monitoring of accidents occurring in State-owned vehicles. Further, we discovered the State lacks a centralized monitoring system for accidents occurring in State-owned vehicles. As a result, there is not a single spending unit within the State directed with the responsibility of monitoring State-owned vehicle crashes.

Auditor’s Recommendation

We recommend the Legislature consider drafting legislation which directs the Department of Administration, or another State agency, with the oversight responsibility of all State-owned vehicle accidents. We recommend the oversight agency be appointed by the Legislature to promulgate rules that govern vehicle accidents which require agencies to hold employee drivers accountable for accidents in which the employee drivers are determined to be “at-fault” or “responsible” for accidents as defined by the rules. Finally, we recommend that such rules of the oversight agency not impinge on the authority and ability of agencies/divisions subject to such oversight to impose their own rules or policies for monitoring vehicle accidents and imposing discipline which meet or exceed those rules of the oversight agency.

Finding 2 **Agency Monitoring of State-Owned Vehicle Accidents¹**

There were 76 agencies/divisions of the State that had vehicle accidents or vehicle damage resulting in BRIM insurance claims during our five-year report period of July 1, 2004 through June 30, 2009. We selected those 29 agencies that had at least one employee involved in two or more BRIM claims related to vehicle accidents during our report period. We determined 14 agencies in our sample (48%) do not have written procedures/policies that specifically relate to monitoring vehicle accidents involving State-owned vehicles² and five additional agencies in our sample (17%) have procedures/policies with vehicle

¹ We have included the General Services Division of the Department of Administration in this finding. However, as noted in the conclusion section on page 13 the Division would not attest to the representations made to us.

² This is not meant to imply that disciplinary action was never taken by any of these institutions upon employee drivers involved in accidents. We noted some agencies did take action for incidents that violated general employee conduct provisions of agency policies.

accident policies/procedures, however, these policies/procedures have no provisions for disciplinary action to be taken in instances where employees exhibit poor driving performance or demonstrate unsafe and/or careless behavior while operating a State-owned vehicle.

Auditor's Recommendation

In lieu of rules that govern vehicle accidents which require all agencies/divisions of the State to hold employee drivers accountable for accidents, we recommend agencies with no policies for monitoring State-owned vehicle accidents draft and adopt such policies that incorporate procedures for holding drivers accountable for accidents in which the employee driver is determined, as defined by the policies, to be at-fault or responsible for the accident. Those agencies with vehicle accident monitoring policies that contain no provisions for holding drivers accountable for at-fault accidents should amend their procedures in order to provide for disciplinary action in certain instances.

Finding 3

Lack of Adherence to Guidelines for Disciplinary Action.

We selected 29 agencies for our test of agency vehicle accidents involving State-owned vehicles. Ten of these agencies included guidelines in their policies and/or procedures for imposing disciplinary action to be taken for certain circumstances related to vehicle accidents. However, we determined from our testing and from interviewing various agency personnel, that five ³of these agencies have not adhered either in whole or in part to their policies or procedures either by failing to take disciplinary action against a driver found to be at-fault in an accident, or by not monitoring (or not properly documenting) accidents involving agency personnel.

Auditor's Recommendation

We recommend the agencies noted above comply with their policies and procedures for monitoring vehicle accidents involving State-owned vehicles.

³ There were no exceptions in testing for five agencies with policies and/or procedures with disciplinary action provisions as follow: The West Virginia State Police, West Liberty University, The Division of Forestry, The Public Service Commission and West Virginia State Parks and Recreation. The Policies of these institutions varied greatly, ranging from extensive procedures with detailed disciplinary policies to much more limited procedures with provisions made for driver retraining or for implementing employee discipline only in the most egregious of circumstances such as driving while intoxicated and unauthorized personal use of State vehicles.

SPECIAL REPORT ON ACCIDENTS IN STATE OWNED VEHICLES
July 1, 2004 – June 30, 2009

INTRODUCTION

POST AUDIT AUTHORITY

This is a special report on Vehicle Accidents in State Vehicles. This special report was conducted pursuant to Chapter 4, Article 2 of the West Virginia Code, which requires the Legislative Auditor to “make post audits of the revenues and expenditures of the spending units of the state government, at least once every two years, if practicable, to report any misapplication of state funds or erroneous, extravagant or unlawful expenditures by any spending unit, to ascertain facts and to make recommendations to the Legislature concerning post audit findings, the revenues and expenditures of the state and of the organization and functions of the state and its spending units.”

BACKGROUND

This report is a follow-up to the special report titled *Special Report on the Oversight of State-owned Automobile Accidents of Alcohol Beverage Control Administration (ABCA)*. The Post Audit Subcommittee released the original report on May 26, 2009.

Chapter 5A, Article 3, Section 48 of the West Virginia Code, as amended, requires the Secretary of the Department of Administration (DOA) to “...promulgate rules relating to the ownership, purchase, use, storage, maintenance and repair of all motor vehicles...” except for those vehicles owned or leased by agencies or divisions of agencies specifically exempted by the article. To comply with Section 48, the DOA promulgated Legislative Rule Title 148, Series 3, (CSR 148-3) effective July 1, 2005. The rule provides for the establishment of an Accidents & Violations Review Committee (AVRC), whose purpose is to review State-owned vehicle accidents and administer discipline. CSR 148-3 includes a disciplinary chart outlining administrative action to be taken in accordance with the Committee’s findings.

One of the findings in our original special report stated the Department of Administration was not complying with the provisions of CSR 148-3 requiring the DOA’s Fleet Management Office to monitor State vehicle accidents and, in some instances, impose disciplinary action upon the State vehicle operator. Although DOA’s Fleet Management Office began enforcing the provisions related to State vehicle accidents in compliance with the recommendation after our report was released on May 26, 2009, the DOA has recently proposed a change to CSR 148-3 that would eliminate those sections of the rule requiring the establishment of a committee for monitoring vehicle accidents and administering disciplinary action. This proposed change also has no provision requiring those agencies with State vehicles to establish a system for monitoring vehicle accidents and administering discipline in lieu of the DOA’s intention to disavow itself from these responsibilities. Moreover, even as the rule currently stands, many agencies, such as the Division of Highways and Higher Education, have been statutorily exempted from DOA’s oversight and the provisions of the Fleet Management Rule.

The West Virginia State Board of Risk and Insurance Management (BRIM) provides casualty insurance coverage for all State Agencies. This includes protection from lawsuits and other liability claims resulting from incidents due to automobile accidents, employment practices, property, flood,

general liability, and medical professional liability. For claims resulting from automobile accidents alone, BRIM paid approximately \$17.7 million during a five-year period beginning July 1, 2004 and concluding June 30, 2009. This amount does not include the \$1,000.00 deductible cost for each claim submitted, which must be borne by the insured State agency/division.

Considering the significant cost to the State in paying insurance claims for State-Owned vehicles, we conducted an audit with an objective of determining if the State has made practical efforts to limit the number of vehicle accidents, control the cost of State-owned vehicle insurance claims and to decrease number of vehicle accidents. In addition to the impact of reducing the number of accidents and controlling the amount of personal injuries and property damage, attempts to control State vehicle accidents is also important in protecting the health of State employees as well as the general public at large.

SPECIAL REPORT ON ACCIDENTS IN STATE OWNED VEHICLES
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SPENDING UNIT CONTACTS

Department of Administration

Robert W. Ferguson, Jr.....Cabinet Secretary
Donna Lipscomb..... Legislative Liaison
Afton Hutson..... General Legal Counsel
David R. TincherDirector, Purchasing Division
Ken FryeAssistant Director, Program Services Section
Janice HartmanFleet Manager

Department of Agriculture

Gus R. Douglass..... Commissioner
Sandra Gillispie..... Director, Administration Services

Department of Health & Human Resources

Patsy A. Hardy, FACHE, MSN, MBA.....Cabinet Secretary
Greg Nicholson..... Chief Operations Officer
Brian Cassis. Director, Office of Internal Control and Policy Development

Division of Labor

Kelley Goes..... Commerce Cabinet Secretary
David W. Mullins Commissioner
Denise Brown Administrative Services Manager I

Division of Natural Resources

Frank Jezioro..... Director
Emily Fleming..... Assistant Director/Legislative Liaison
Harry Price..... Administrative Services Manager
Lieutenant Brad DeBoard.....Law Enforcement
Bret PrestonWildlife Resources

Division of Corrections

Jim Rubenstein.....Commissioner
Bryan ArthurFleet Coordinator

Division of Forestry

Randy Dye.....Director/State Forester
Steve Meester Assistant Director

Division of Highways

Paul A. Mattox, Jr., P.E.....Commissioner
Danny EllisBusiness Manager
Jeff Black Human Resources Division
Mike Vasarhelyi.....Chief Investigator

Division of Juvenile Services

Dale Humphreys..... Director
Denny Dotson Deputy Director
Bruce Blackhurst Assistant Director

Division of Motor Vehicles

Paul A. Mattox, Jr., P.E.Department of Transportation Cabinet Secretary
Joe E. Miller..... Commissioner
Steve Dale Executive Assistant
Steve Edens..... Director, Investigation, Security and Support Services
Greg Winter..... Fleet Coordinator, Investigator

Division of Rehabilitation Services

Deborah Lovely Director
Jim Quarles Assistant Director

Bluefield State College

Dr. Albert L. Walker..... President
Shelia Johnson..... Chief Financial Officer
Diana Gibson..... Administrative Assistant Sr.

Coal Heritage Highway Authority

Christy Bailey..... Executive Director
Rachel Booth..... Administrative Assistant

Concord University

Dr. Gregory F. Aloia..... President
Dr. Charles Becker..... Vice President for Finance & Facilities
Chief Mark Stella..... Concord University Police

Fire Commission

Sterling Lewis, Jr..... Fire Marshall
Nancy Olson..... Secretary

General Services Division – Operations & Maintenance

David M. Oliverio..... Director
Janice Hartman Fleet Manager

Glenville State College

Dr. Peter B. Barr President
Robert O. Hardman II..... Chief Financial Officer
Thomas R. Ratliff..... Director, Maintenance & Plant

Homeland Security & Emergency Management

James W. Spears Military Affairs and Public Safety, Cabinet Secretary
Jimmy Gianato Director
Laverne Stout Operations Officer

Lottery Commission

Virgil T. Helton..... Department of Revenue, Cabinet Secretary
John Musgrave Director
Erica Mani Deputy Director
John Myers..... Assistant Director
Alan Siemiacko Fleet Coordinator

Marshal University

Dr. Stephen J. Kopp..... President
Layton Cottrill..... General Counsel
Elizabeth Tappan..... Accountant, WV Autism Training Center

Office of the Attorney General

Darrell McGraw..... Attorney General
Fran Hughes Deputy Attorney General
Jerome K. Clay..... Comptroller/Chief Financial Officer

Parkways Economic Development and Tourism Authority

Paul A. Mattox, Jr., P.E. Department of Transportation Cabinet Secretary
Greg Barr General Manager
Tyrone Gore Director of Operations
Shelley Clay Purchasing Director

Public Service Commission

Michael A. AlbertChairman
David KovarikDirector of Administration
Herb Brooks Finance Manager
Don SangidFacilities/Ground Management

Shepherd University

Dr. Suzanne Shipley.....President
Alan Perdue.....General Counsel
Ed Magee Vice President, Administration & Finance

Tax Department

Virgil T. Helton..... Secretary, Department of Revenue
Christopher G. Morris.....State Tax Commissioner
Craig Griffith..... Deputy Tax Commissioner
Becky Carnefix Internal Auditor

West Liberty University

Dr. Robin C. Capehart.....President
Anthony Salatiano..... Health and Safety Specialist

West Virginia University Institute of Technology

Dr. Scott Hurst.....Provost
Debbie Oliver. Administrative Associate, Physical Plant

West Virginia State Parks

Frank Jezioro Director
Harry Price..... Executive Secretary
Robert Beanblossom..... District Administrator

West Virginia State Police

Colonel T. S. Pack Superintendent
Captain G. A. Ingold Chairman Professional Standards Section
First Sergeant R. L. Pursley Chairman WVSP Accident Review Board

West Virginia University

Dr. James P. Clements President
Daniel Durbin Sr. Associate Vice President Finance
William R. Quigley, CPA Director Internal Audit Office
Keith Pules, Jr. Supervisor, Motor Pool Transportation and Parking
Mike Gansor Risk Manager, Business Services
Amber Tennant Human Resources Sr. Employee Relations Specialist

SPECIAL REPORT ON ACCIDENTS IN STATE OWNED VEHICLES
July 1, 2004 – June 30, 2009

SCOPE

The scope of this special report on the State-owned Vehicles Agencies is limited to reporting on the extent and effectiveness of accident review and driver disciplinary procedures over the State-owned vehicle driving accidents from July 1, 2004 through June 30, 2009. This special report was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

OBJECTIVES AND METHODOLOGIES

The objectives of this special report were to (1) to determine if the oversight agencies of the State, have developed and implemented procedures for reviewing the circumstances related to vehicle accidents involving Stated-owned vehicles; and (2) to determine if the agencies of the State, has developed and implemented disciplinary measures for situations where operators of these State-owned vehicles are involved in “preventable” or “at-fault” vehicle accidents as a means to limit the number of accidents.

In order to achieve the objectives noted above, we reviewed applicable sections of the West Virginia Code, Legislative Rules, as well as other rules and regulations, policies and procedures, conducted interviews with Agencies, Fleet Management and Board of Risk and Insurance Management (BRIM) employees and reviewed various documents related to State-owned vehicle accidents.

There were 76 agencies/divisions of the State that have vehicle accidents resulted in an insurance claim with the State’s Board of Risk and Insurance Management (BRIM) during our five-year report period of July 1, 2004 through June 30, 2009. Twenty-nine of these 76 agencies had at least one employee involved in two or more vehicle accidents resulting in BRIM insurance claims. We selected these 29 agencies for our test sample.

Our reports are designed to assist the Post Audit Subcommittee in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report is intended solely for the information and use of the Post Audit Subcommittee, the members of the WV Legislature, management of the spending unit and others within the spending unit. However, once released by the Post Audit Subcommittee, this report is a matter of public record and its distribution is not limited.

CONCLUSIONS

After completing our review work, our general conclusion is that the majority of agencies/divisions of the State that operate State vehicles do not have policies/procedures for monitoring vehicle accidents involving State-owned vehicles. Such a lack of oversight may result in the State as a whole, incurring considerable additional costs for insurance and for maintaining a viable fleet of vehicles. After reviewing interviewing agency personnel and conducting tests for these 29 agencies, we were able to broadly categorize the results of our testing as follows:

<u>General Category</u>	<u>Number of Agencies</u>
Do not have policies/procedures for monitoring vehicle accidents involving State-owned vehicles	14
Policies/procedures do not include provisions for imposing disciplinary action	5
Agencies failed to comply with their Policies/procedures for imposing disciplinary action	5
Agencies complied with their policies /procedures related to imposing disciplinary action upon driver	<u>5</u>
TOTAL AGENCIES IN SAMPLE	<u>29</u>

We have included the General Services Division of the Department of Administration in Finding 2 however; the Division would not sign a representation letter that stated:

They confirm, to the best of their knowledge and belief, as of November 13, 2009 the following representations made to us during the special report on Vehicle Accidents in State Vehicles involving drivers with two (2) or more accidents concerning the General Services Division.

1. They acknowledge their responsibility for the design and implementation of programs and controls to prevent and detect fraud.
2. They have no knowledge of any fraud or suspected fraud affecting the entity involving:
 - a. Management,
 - b. Employees who have significant roles in internal control, or
 - c. Others where the fraud could have a material effect on the Spending Unit.
3. They have no knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, analysts, regulators, short sellers, or others.
4. There are no violations of laws or regulations whose effects should be considered for disclosure in the special report on Vehicle Accidents in State Vehicles.

They would not attest that to the best of their knowledge and belief, no events have occurred subsequent to the date of the special report on Vehicle Accidents in State Vehicles, and through the date of the letter that would require adjustment to or disclosure in the aforementioned report.

EXIT CONFERENCES

We discussed this report with Department of Administration on November 23, 2009. All findings and recommendations were reviewed and discussed.

Between November 16, 2009 and November 23, 2009, we discussed this report with every spending unit having two and/or more vehicle accidents per driver. All findings and recommendations were reviewed and discussed. Each spending unit's response has been included at the end of this report in Appendix A.

SPECIAL REPORT ON ACCIDENTS IN STATE OWNED VEHICLES
July 1, 2004 – June 30, 2009

FINDINGS

Finding 1 **Failure to Implement Policies and Procedures Related to the Oversight of Vehicle Crashes Occurring In State-Owned Automobiles**

Condition For our special report, we selected 29 agencies that had at least one employee involved in two or more vehicle accidents resulting in Board of Risk and Insurance Management (BRIM) insurance claims during our report period. During our research for this special report, we found no consistency between State agencies in their monitoring of accidents occurring in State-owned vehicles. Further, we discovered the State lacks a centralized monitoring system for accidents occurring in State-owned vehicles. As a result, there is not a single spending unit within the State directed with the responsibility of monitoring State-owned vehicle crashes. Some issues that we found include:

- Fourteen agencies do not have a policy for monitoring State-owned vehicle accidents;
- Five agencies have policies for monitoring State-owned vehicle accidents; however, they lack provisions for disciplinary action;
- Five agencies have policies with provisions, however, they are not adhering in whole or in part to these policies.

In our *Special Report on the Oversight of State-owned Automobile Accidents of Alcohol Beverage Control Administration (ABCA)* we reported the Department of Administration's (DOA) Purchasing Division's Fleet Management Office was not complying with the provisions of Legislative Rule Title 148, Series 3, which requires the Fleet Management Office to monitor State vehicle accidents and, in some instances, impose disciplinary action upon the State vehicle operator. Although the Purchasing Division's Fleet Management Office began enforcing the provisions related to State vehicle accidents in compliance with the recommendation after our report was released on May 26, 2009, the DOA has recently submitted to the Legislative Rule Making Committee a revised draft of CSR 148-3 that would eliminate those sections of the rule requiring the establishment of a committee for monitoring vehicle accidents and administering disciplinary action. This proposed change also has no provision requiring those agencies with State vehicles to establish a system for monitoring

vehicle accidents and administering discipline in lieu of the DOA's intention to disavow itself from these responsibilities.

Moreover, even as the rule currently stands, many agencies/divisions of the State have been statutorily exempted from Fleet Management's oversight. These agencies/divisions include the Division of Highways of the Department of Transportation, the West Virginia State Police, the Division of Natural Resources, the Division of Forestry, the Department of Agriculture, the Higher Education Policy Commission and the Higher Education Governing Boards and their Institutions. The spending units that are exempt from these rules are not offered any direction or reference from the State as to how to monitor vehicle accidents occurring in State-owned vehicles.

Criteria

West Virginia Code Chapter 5F, Article 2, Section 2, states in part:

"...(b) The secretaries of the departments hereby created shall engage in a comprehensive review of practices, policies, and operations of the agencies and boards within their departments to determine the **feasibility of cost reductions and increased efficiency which may be achieved** therein, including, but not limited to, the following:

(1) The elimination, reduction, and **restriction of the state's vehicle or other transportation fleet...** (Emphasis Added)

Title 148, Section 8.6 of the Fleet Management Office's Legislative Rule states in part:

"...8.6 Reviewing Driving Records of Operators.

In the event of an accident, property damage of any kind, or any damage to any State Owned vehicle, the **Travel Management Office will review the involved operator's driving record** with the Division of Motor Vehicles....

The Accidents & Violations Review Committee will be comprised of a representative of the Travel Management Office, one representative of the Division of Personnel, one representative of the Secretary of Administration's office, and two representatives of the operator's department – one representative selected by the vehicle operator. **Decisions by the committee will be based on the administration action chart attached hereto as Exhibit A.** (Emphasis Added)

Exhibit A (Administrative Action for State Owned Vehicle Operators) of Title 148, Series 3 of the Fleet Management Office's Legislative Rule states in part:

"...ACCIDENTS

ACTION

...1 Not-At-Fault or Non-Preventable	Verbal Counseling by the AVRC
...2 Not-At-Fault or Non-Preventable or 1 At-Fault or Preventable	Written Reprimand and Defensive Driving Course
...3 Not-At-Fault or Non-Preventable	Written Reprimand and suspension for a Maximum 03 Months
...2 At-Fault or Preventable	Suspension for a Minimum 03 Months to a Maximum 12 Months...”

Cause There is no agency/division of the State directed with the administration of all State vehicles. Also, there is no State-wide policy requiring that agencies monitor vehicle accidents and impose disciplinary action upon the employee/driver of the vehicle in certain situations.

Effect The West Virginia State Board of Risk and Insurance Management (BRIM) paid approximately \$17.7 million during a five-year period beginning July 1, 2004 and concluding June 30, 2009. This amount does not include the \$1,000.00 deductible cost for each claim submitted, which must be borne by the insured State agency/division.

Although impossible to accurately estimate, we contend that potential cost savings could be realized if all agencies/divisions of the State implemented reasonable and practical policies for monitoring vehicle accidents and, in certain instances in accordance with policies, impose disciplinary action upon those employees determined to be at-fault or responsible for accidents while operating State vehicles. In addition to the impact of reducing the number of accidents and controlling the amount of personal injuries and property damage, we deem such vehicle accident monitoring and accident reduction policies to be important in protecting the health of State employees as well as the general public at large.

Recommendation We recommend the Legislature consider drafting legislation which directs the Department of Administration, or another State agency, with the oversight responsibility of all State-owned vehicle accidents. We recommend the oversight agency be appointed by the Legislature to promulgate rules that govern vehicle accidents which require agencies to hold employee drivers accountable for accidents in which the employee drivers are determined to be “at-fault” or “responsible” for accidents as defined by the rules. Finally, we recommend that such rules of the oversight agency not impinge on the authority and ability of agencies/divisions subject to such oversight to impose their own rules or policies for monitoring vehicle accidents and imposing discipline which meet or exceed those rules of the oversight agency.

Finding 2

Agency Monitoring of State-Owned Vehicle Accidents

Condition

There were 76 agencies/divisions of the State that had vehicle accidents or vehicle damage resulting in BRIM insurance claims during our five-year report period of July 1, 2004 through June 30, 2009. We selected those 29 agencies that had at least one employee involved in two or more BRIM claims related to vehicle accidents during our report period. Based on assertions made by agency personnel and the documentation reviewed, we determined 14 agencies/divisions (48%) do not have written procedures/policies that specifically relate to monitoring vehicle accidents involving State-owned vehicles⁴. These agencies and their aggregate vehicle BRIM claims paid for our five year report period are as follows:

Agency	Number of Claims	Amount *
- Coal Heritage Highway Authority	2	\$ 2,322.27
- Concord University	13	\$ 27,862.23
- Division of Motor Vehicles	22	\$ 39,617.38
- Department of Agriculture	29	\$ 99,498.18
- Department of Health & Human Resources	99	\$ 516,258.66
- Division of Corrections	40	\$ 109,565.21
- Division of Juvenile Services	35	\$ 73,742.05
- Division of Rehabilitation Services	6	\$ 1,689.22
- Fire Commission	14	\$ 30,451.51
- General Services Division ⁵	4	\$ 5,476.81
- Glenville State College	9	\$ 16,542.09
- Marshall University	20	\$ 60,669.24
- Office of The Attorney General	6	\$ 3,526.81
- Shepherd University	14	\$ 12,327.81
TOTALS	313	\$999,549.47

***Aggregate BRIM Payments for insured vehicles for the period of July 1, 2004 through June 30, 2009**

Five additional agencies (17% of sample) with policies and procedures related to monitoring State-owned vehicle accidents have no provisions in their policies/procedures for disciplinary action to be taken for drivers exhibiting poor driving performance or for drivers demonstrating unsafe and/or careless behavior while operating a State-owned vehicle. These agencies and their aggregate vehicle BRIM claims paid for our five year report period are as follows:

Agency	Number of Claims	Amount*
- Bluefield State College	10	\$21,599.82
- Homeland Security and Emergency Management	6	\$2,342.44
- Parkways Economic Development and Tourism	58	\$295,339.33
- West Virginia State Tax Department	8	\$6,474.69
- Division of Labor	14	\$110,899.14
TOTALS	96	\$436,655.42

***Aggregate BRIM Payments for insured vehicles for the period of July 1, 2004 through June 30, 2009**

⁴ This is not meant to imply that disciplinary action was never taken by any of these institutions upon employee drivers involved in accidents. We noted some agencies did take action for incidents that violated general employee conduct provisions of agency policies.

⁵ We have included the General Services Division of the Department of Administration in this finding. However, as noted in the conclusion section on page 13 the Division would not attest to the representations made to us.

Criteria:

Chapter 5F, Article 2, Section 2 of the West Virginia Code, as amended, states in part:

“... (a) Notwithstanding any other provision of this code to the contrary, the secretary of each department shall have plenary power and authority within and for the department to:

2) Cause the various agencies and boards to be operated effectively, efficiently and economically, and ***develop goals, objectives, policies and plans that are necessary or desirable for the effective, efficient and economical operation of the department...***

...(b) The secretaries of the departments hereby created shall engage in a comprehensive review of practices, policies, and operations of the agencies and boards within their departments to determine the ***feasibility of cost reductions and increased efficiency which may be achieved*** therein, including, but not limited to, the following:

The elimination, reduction, and ***restriction of the state’s vehicle or other transportation fleet...***” (*Emphasis Added*)

Cause:

Some agencies that lease State vehicles from the DOA’s Fleet Management Office contend it is Fleet Managements responsibility to monitor vehicle accidents involving leased vehicles. Other agencies have simply not developed State-owned vehicle accident monitoring procedures or have failed to include such provisions in their procedures for imposing discipline upon the employee driver of a State vehicle when the driver is determined, in accordance with the procedures, to be negligent, responsible or at-fault.

Effect:

As stated in Finding 1, we contend there are potential cost savings that could be realized if all agencies/divisions of the State implemented reasonable and practical policies that would not only monitor vehicle accidents, but, in certain instances, impose disciplinary action upon those employees determined to be at-fault or responsible for accidents while operating State vehicles. In addition to the impact of reducing the number of accidents and controlling the amount of personal injuries and property damage, we deem such vehicle accident monitoring and accident reduction policies to be important in protecting the health of State employees as well as the general public at large.

The fact that agencies do not have policies related to their State-owned vehicle fleets, and many having polices do not possess supporting documentation of disciplinary actions pursued against agency personnel involved in accidents, may result in unnecessary financial outlays for the State. Maintaining Fleet vehicles is a great expense to the State, and it is only appropriate that State agencies have policies and procedures in place to safeguard such assets. Furthermore, repairs to and replacement of State-owned vehicles due to accidents that are

the fault of agency personnel are an unnecessary expense incurred by the State. In the current economic climate and with the State facing declining revenues, it is imperative that the State use its scarce funds efficiently.

Recommendation:

In lieu of rules that govern vehicle accidents which require all agencies/divisions of the State to hold employee drivers accountable for accidents, we recommend those agencies with no such policies draft and adopt policies for monitoring State-owned vehicle accidents. Such policies should incorporate procedures for holding drivers accountable for accidents in which the employee driver is determined to be, as defined by the policies, at-fault or responsible for the accident. Those agencies with vehicle accident monitoring policies that contain no provisions for holding drivers accountable for at-fault accidents should amend their procedures in order to provide for disciplinary action in certain instances.

Finding 3: Lack of Adherence to Guidelines for Disciplinary Action.

Condition: As stated in the previous two findings, we selected 29 agencies for our test of agency vehicle accidents involving State-owned vehicles. Ten of these agencies included guidelines in their policies and/or procedures for imposing disciplinary action to be taken for certain circumstances related to vehicle accidents. However, we determined from our testing and from interviewing various agency personnel, that five ⁶ of these agencies have not adhered either in whole or in part to their policies or procedures either by failing to take disciplinary action against a driver found to be at-fault in an accident, or by not monitoring (or not properly documenting) accidents involving agency personnel. These agencies and the BRIM insurance claims paid for State-owned vehicle accidents during our five year report period are as follows:

Agency	Number of Claims	Amount
- Division of Highways	3896	\$10,021,058.11
- Division of Natural Resources	70	\$270,583.73
- West Virginia Lottery Commission	18	21,370.40
- WVU Institute of Technology	14	\$17,248.49
- West Virginia University	146	\$982,731.28
TOTALS	4,144	\$11,312,992.01

Division of Highways (DOH): There were 108 accidents involving DOH personnel in our test sample. Because these accidents were not investigated in accordance with DOH’s “Administrative Operating Procedures” we were unable to determine how many of these accidents should have resulted in disciplinary action imposed upon the employee operator. However, based upon our professional judgment, eleven of these accidents, or 10.19% of the test sample, were obviously not the fault of the employee operator and were unavoidable or unpreventable due to factors such as the accident being deer-related, gravel falling from a DOH vehicle, and the DOH vehicle being struck from behind by another vehicle.

Division of Natural Resources (DNR): There were 22 accidents involving DNR personnel in our test sample. The DNR established an “Accident Review Board” on January 19, 2007, which has the authority to impose disciplinary action upon the employee driver if the Board deems it warranted. However, we were informed by DNR personnel that the Board only has jurisdiction over accidents involving DNR Law Enforcement personnel. Thus there are no guidelines for disciplinary action for the remaining sections of DNR. No review for disciplinary action was taken for twelve of 22, or 55%, of the accidents in our sample. The

⁶ There were no exceptions in testing for five agencies with policies and/or procedures with disciplinary action provisions as follow: The West Virginia State Police, West Liberty University, The Division of Forestry, The Public Service Commission and West Virginia State Parks and Recreation. The Policies of these institutions varied greatly, ranging from extensive procedures with detailed disciplinary policies to much more limited procedures with provisions made for driver retraining or for implementing employee discipline only in the most egregious of circumstances such as driving while intoxicated and the personal use of State vehicles.

Board did not review these accidents because six occurred prior to the establishment of the review board and six involved DNR employees that were not Law Enforcement personnel.

West Virginia Lottery Commission (Lottery Commission): There were eight accidents involving Lottery Commission personnel in our test sample. It appears disciplinary action would not have been necessary in at least three of the eight incidents, as they were deer-related. We could not determine if the other five incidents were reviewed in accordance with the Lottery Commission's policy since the Commission's Fleet Manager informed us by memorandum dated September 29, 2009 that vehicle accident records are destroyed when a vehicle is removed from the agency's service.

West Virginia University Institute of Technology (WVU Tech): There were four accidents involving WVU Tech personnel in our test sample. All of the accidents appear to have been the result of negligence on the part of the driver or the passenger in the State-owned car. However, WVU Tech was unable to provide us with documentation indicating the accidents were reviewed in accordance with their vehicle accident review policies.

West Virginia University (WVU): There were 23 accidents involving ten WVU personnel in our test sample. We noted two instances where disciplinary action was not taken in accordance with WVU's vehicle accident review procedure. Further, although WVU has a procedure for monitoring vehicle accidents which includes disciplinary action, this procedure has not been documented or formally adopted as a WVU policy by the WVU Board of Governors.

Criteria:

Chapter 5F, Article 2, Section 2 of the West Virginia Code, as amended, states in part:

"... (a) Notwithstanding any other provision of this code to the contrary, the secretary of each department shall have plenary power and authority within and for the department to:

2) Cause the various agencies and boards to be operated effectively, efficiently and economically, and ***develop goals, objectives, policies and plans that are necessary or desirable for the effective, efficient and economical operation of the department...***

...(b) The secretaries of the departments hereby created shall engage in a comprehensive review of practices, policies, and operations of the agencies and boards within their departments to determine the ***feasibility of cost reductions and increased efficiency which may be achieved*** therein, including, but not limited to, the following:

The elimination, reduction, and ***restriction of the state's vehicle or other transportation fleet...*** (Emphasis Added)

Cause: DOH personnel told us the employee responsible for monitoring vehicle accidents became ill and subsequently retired and no other employee was assigned to take over these responsibilities.

Although the DNR has detailed policy related to monitoring and investigating State-owned vehicle accidents with provisions for disciplinary action, its policy is limited to DNR Law Enforcement personnel. Employees of other DNR Divisions that are involved in vehicle accidents while driving a State vehicle are not subject to the policy.

We could not determine if the Lottery Commission complied with their policy since the agency was unable to provide us documentation related five vehicle accidents in our sample. We were informed through a memorandum from the Lottery Commission's Fleet Manager that vehicle accident records are destroyed when a vehicle is removed from the agency's service.

According to an administrative associate employee for WVU Tech's Physical Plant Department no accident records documenting the review of the vehicle accidents could be located.

Although WVU had a procedure for monitoring vehicle accidents involving State vehicles, the procedure was never formally adopted as an approved policy by the WVU Board of Governors. Also, the WVU Risk Manager informed us the two exceptions noted to WVU's standard accident monitoring procedures were simply unintended oversights on the part of the Risk Management Office.

Effect: It is our conviction that well-crafted policies and procedures for monitoring State-owned vehicle accidents and for imposing disciplinary action upon the employee driver of the vehicle when circumstances, in accordance with these policies and procedures, warrant such action would serve to reduce the cost and frequency of the accidents. However, if agencies fail to adhere to established policies and procedures, any potential benefits would not be realized.

Recommendation: We recommend the agencies noted above comply with their policies and procedures for monitoring vehicle accidents involving State-owned vehicles.

SPECIAL REPORT ON ACCIDENTS IN STATE OWNED VEHICLES
July 1, 2004 – June 30, 2009

APPENDIX A
SPENDING UNIT RESPONSES

- Department of Administration*
- Bluefield State College
- Coal Heritage Highway Authority
- Concord University
- Department of Agriculture
- Department of Health & Human Resources*
- Department of Labor*
- Department of Motor Vehicles
- WV Division of Natural Resources*
- Division of Corrections
- Division of Forestry~
- Division of Highways
- Division of Juvenile Services*
- Division of Rehabilitation Services*
- Fire Commission*
- General Services Division
- Glenville State College*
- Division of Homeland Security & Emergency Management*
- Lottery Commission
- Marshall University
- Office of the Attorney General*
- Parkways Economic Development and Tourism*
- Public Service Commission~
- Shepherd University
- Tax Department
- West Liberty University~
- West Virginia State Parks~
- West Virginia State Police~
- West Virginia University
- West Virginia University Institute of Technology*

* No response was received

~ No exception, no responses needed.



December 1, 2009

Ms. Stacy L. Sneed
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610

Dear Ms. Sneed:

Attached is Bluefield State College's response to the Vehicle Accidents in State Owned Vehicles request.

If you have any questions, feel free to call me at 304/327-4040.

Sincerely,

A handwritten signature in blue ink that reads "Shelia Johnson".

Shelia Johnson, Vice President
Financial and Administrative Affairs

SJ/bar

Attachment

-25-

BLUEFIELD CAMPUS

219 Rock Street Bluefield, WV 24701 (304) 327-4000 (304) 325-7747 (FAX)
TOLL-FREE IN WV (800) 344-8892 IN VA, DC, OH, NC, KY AND PARTS OF MD, PA (800) 654-7798

Bluefield State College
Response to Legislative Post Audit Report
Vehicle Accidents in State Owned Vehicles
November 24, 2009

Bluefield State College recognizes the importance of safety and due diligence in the operations of its vehicle fleet. The College currently has a Fleet Management Policy and will review it for needed updates and recommend changes to the Board of Governors. The College also has in place a disciplinary process for the entire institution. It will also be reviewed as related to vehicle fleet issues. A new procedure has recently been put in place to allow for better communication within the institution for safety reporting; therefore, yield better knowledge of needed disciplinary action related to vehicle safety issues.

Bluefield State College appreciates the information supplied related to the accidents reported by BRIM for the period July 1, 2004 through June 30, 2009. The College concurs with the list as reported by BRIM and notes of the 10 cited totaling \$21,599.82, employees were at fault for 8 of the 10, totaling \$ 5,902.48. The College will in the future develop a better communication process to its employees who are at fault for accidents.



National Coal Heritage Area Authority

P. O. Box 5176
Beckley, WV 25801
304-256-6941

November 30, 2009

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd. East
Charleston, WV 25305-0844

Dear Ms. Sneed:

As you have reported in the special report on Vehicle Accidents in State Owned Vehicles, the Coal Heritage Highway Authority was cited in finding 2 of the report. We offer the following responses to remediate the issues raised in that finding:

Finding 2: Agency Monitoring of State-Owned Vehicle Accidents

Response: We will implement your recommendation that in lieu of state-wide rules and regulations, we will work with our board of directors to adopt and implement a policy for monitoring state-owned vehicle accidents including policies for holding drivers accountable for at-fault accidents.

We will continue to work with the Office of Travel Management and implement any other policies that are instituted as a result of your report.

Thank you for bringing this matter to our attention. Please advise us if further action or information is needed.

Sincerely,

Christy Bailey
Executive Director

Concord University
Special Report on Vehicle Accidents in State Vehicles
July 1, 2004-June 30, 2009

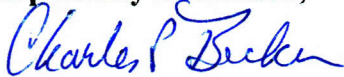
Finding 1. Failure to implement policies and procedures related to the oversight of vehicle crashes occurring in State-owned automobiles.

Concord University has policies and procedures related to oversight and discipline regarding employee behavior within the employee's scope of employment. This generally applies to employees who drive State vehicles and are involved in accidents. Although Concord has general policies we do not have policies and procedures specific to oversight of vehicle accidents occurring in State-owned automobiles. Concord University is pursuing the development of such a policy. This will be an information item for our December 16th Board of Governors meeting.

Finding 2. Agency monitoring of State-owned vehicle accidents

Concord University has practices in place to monitor accidents and take appropriate action when needed. Although this has been our practice, Concord does not have written policies and procedures to monitor accidents and take appropriate action. Concord University concurs with the findings of the Legislative Auditors and will take steps to develop and implement such policies and procedures to monitor accidents and take appropriate action to hold employee drivers accountable when they are found to be "at fault" or responsible for the accident. This will be an information item for our December 16th Board of Governors meeting.

Respectfully Submitted,



Charles P. Becker
Interim VP Business & Finance



State of West Virginia
DEPARTMENT OF AGRICULTURE
Gus R. Douglass, Commissioner

Janet L. Fisher
Deputy Commissioner

Steve Hannah
Deputy Commissioner

November 20, 2009

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd., East
Charleston, WV 25305

Dear Ms. Sneed:

In response to Finding #2 in your Special Report on Vehicle Accidents in State Vehicles for the period July 1, 2004 through June 30, 2009, the Department of Agriculture (WVDA) will expand our written policy to include procedures for holding drivers accountable for accidents involving State-owned vehicles in which the employee driver is determined to be "at fault" or "responsible" for the accident.

The Department of Agriculture will have the following representatives attending the Post Audit Subcommittee meeting at 3:00 p.m. on December 8, 2009:

Steve Hannah, Deputy Commissioner
Bob Tabb, Assistant Commissioner

If you have any questions, please contact me at 304-558-2221.

Sincerely,

A handwritten signature in blue ink that reads "Sandra Gillispie".

Sandra Gillispie
Director Administrative Services

SG/alo

c: Gus R. Douglass, Commissioner
Steve Hannah, Deputy Commissioner
Janet Fisher, Deputy Commissioner
Bob Tabb, Assistant Commissioner



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Motor Vehicles

1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317-0010 • (304) 558-3900
TDD (800) 742-6991 • (800) 642-9066

Joe Manchin III
Governor

November 24, 2009

Aaron Allred, Legislative Auditor
Legislative Post Audit Division
Building 1, Room W-329
State Capitol Complex
Charleston, WV 25305-0610

Subject: Vehicle Accidents in State Owned Vehicles Response

Dear Mr. Allred:

As requested in the Special Report on Accidents in State Owned Vehicles, please find the Division of Motor Vehicles Response to Finding# 2 listed below.

Finding#2 – Recommendation – In lieu of centralized rules that govern vehicle accidents which require all agencies/divisions of the State to hold employee drivers accountable for accidents, we recommend those agencies with no such policies draft and adopt policies for themselves for monitoring State-owned vehicle accidents. Such policies should incorporate procedures for holding drivers accountable for accidents in which the employee driver is determined to be, as defined by the policies, at fault or responsible for the accident. Those agencies with vehicle accident monitoring policies that contain no provisions for holding drivers accountable for at fault accidents should amend their procedures in order to provide for disciplinary action in certain instances.

The special report listed the Division of Motor Vehicles having (22) claims submitted to BRIM from July 1, 2004 through June 30, 2009. Out of the (22) claims, one accident was determined the driver to be at fault and disciplinary actions was taken accordingly. The other (21) claims were determined the driver

Aaron Allred
Page 2
November 24, 2009

was not at-fault and/or vandalism occurred to the vehicles while parked in an open state owned parking lot.

The State owned parking lot where DMV state vehicles were parked was located in a parking area adjacent to Sydney Street in the east end of Charleston and were unprotected. Several vehicles parked on this lot sustained vandalism over the years and the Division was required to file a claim with BRIM.

On November 6, 2009, the Division of Motor Vehicles began the process of moving from Building three to the Kanawha Mall. As a corrective action, the Division has installed a secure parking area which has a ten foot fence and gate. This action should reduce any vandalism to our fleet and reduce the number of claims.

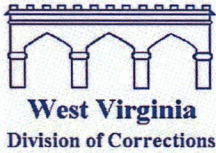
The Division of Motor Vehicles understands the Agency is subject to follow any Legislative-mandated code relating to policies and procedures regarding accidents in State owned vehicles and the Agency will make any necessary changes to our policies in accordance with the State Code as related to accidents in State owned vehicles. As we stated in the exit interview, the Division will do everything possible to promote a safe and accident free environment.

If you should need additional information regarding this audit response, please contact me anytime at 304-926-0713.

Sincerely,


Joe E. Miller
Commissioner

/gw



STATE OF WEST VIRGINIA
DEPARTMENT OF MILITARY AFFAIRS & PUBLIC SAFETY
DIVISION OF CORRECTIONS



JOE MANCHIN III
GOVERNOR

JIM RUBENSTEIN
COMMISSIONER

JAMES W. SPEARS
SECRETARY

OFFICE OF THE COMMISSIONER
1409 GREENBRIER STREET
CHARLESTON, WV 25311
(304) 558-2036 TELEPHONE - (304) 558-5934 FAX
November 30, 2009

Stacy Sneed, Director
Legislative Post Audit Division
Building 1, Room W-329
Charleston, WV 25305

Dear Director Sneed:

In response to our conference call on November 19, 2009 regarding the Special Report on Vehicle Accidents in State Vehicles, July 1, 2004 – June 30, 2009, I offer the following.

With regard to Finding 2 – Agency Monitoring of State-Owned Accidents, we are currently developing and implementing a policy directive to cover this area.

Should you have any questions or need any additional information please do not hesitate to contact my office.

Respectfully,

Jim Rubenstein
Commissioner

JR/sh

Cc: Deputy Commissioner Haines
Barbara Fish, Director of Administration
Mike Coleman, Director of Security
Bryan Arthur, Fleet Coordinator
file



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 110
Charleston, West Virginia 25305-0430 • (304) 558-3505

Joe Manchin III
Governor

November 23, 2009

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division
Building 1, Room 329
State Capitol Complex
Charleston, West Virginia 25305-0610

Dear Ms. Sneed:

This is in response to the Special Report on Vehicle Accidents in State Vehicles, as it pertains to the West Virginia Division of Highways.

As noted in the Report, the agency has a policy in effect providing for the review of accidents to determine the cause and whether any fault is attributable to the equipment operator. The report is correct that the agency has not consistently complied with that aspect of the policy that assesses fault.

That is not saying, however, that the agency has turned a blind eye to accidents. The agency diligently collects and records information relating to accidents, as required by the policy. This information is reviewed along the way by appropriate managers, making them aware of issues in need of attention. For example, a number of the accidents sampled by the Auditor related to damage to vehicles due to agency vehicles throwing off rock or salt/cinders. In response to those types of insurance claims, the agency implemented measures to modify salt spreaders and their operation to minimize the possibility of damage to other vehicles.

The Division is currently reviewing its Equipment Operational Review Committee Policy with an intent to ensure a meaningful review of accidents and/or loss claims that will hold appropriate parties responsible as appropriate.

Sincerely,

A handwritten signature in cursive script that reads "Paul A. Mattox, Jr.".

Paul A. Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways

PAM:Br



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES DIVISION
State Capitol
Charleston, West Virginia 25305

Joe Manchin III
Governor

Robert W. Ferguson, Jr.
Cabinet Secretary

November 24, 2009

David M. Oliverio
Director

Ms. Stacy L. Sneed, CPA, CICA, Director
West Virginia Legislature
Joint Committee on Government and Finance
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Re: Vehicle Accidents in State-Owned Vehicles Special Report

Dear Ms. Sneed:

Please accept this correspondence and enclosure as the Department of Administration, General Services Division's response to your request for information, as posed in your July 1, 2009, letter regarding State-owned vehicle driving accidents and violations.

Question: *Does your agency have written policies and/or procedures related to monitoring State owned vehicle accidents?*

Response: *Prior to June 3, 2009, the General Services Division had no formal policy and/or procedure related to monitoring state-owned vehicle accidents.*

As of June 3, 2009, the Department of Administration implemented the Accidents and Violations Review Committee for all accidents occurring in a state-owned vehicle in accordance with the Code of State Rules, Title 148, Series 3, except for those state-owned vehicles owned or leased by the Division of Highways of the Department of Transportation; the Division of Public Safety of the Department of Military Affairs and Public Safety; the Division of Natural Resources; the Division of Forestry; the Department of Agriculture; the Higher Education Policy Commission and the Higher Education Governing Boards and their institutions. [Please see attached policy].

I trust this response addresses your request for information. As of the date of this letter, I attest the information provided and contained herein is true and accurate to the best of my knowledge.

Sincerely,

David M. Oliverio
Director

Enclosure

cc: Robert W. Ferguson, Jr., Cabinet Secretary




P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
FAX: 304-558-3321

Joe Manchin III
Governor

John C. Musgrave
Director

TO: Ms Stacy L. Snead, CPA, CICA, Director
Legislative Post Audit Division

FROM: John A. Myers, Assistant Lottery Director 
West Virginia Lottery

RE: Special Report on Vehicle Accidents in State Vehicles

Date: November 17, 2009

In Finding #3 of the Special Report on Vehicle Accidents in State Vehicles, the West Virginia Lottery was listed as an agency that has policies and procedures for monitoring State-owned vehicle accidents but has not adhered in whole to guidelines for disciplinary action against a driver found to be at-fault. Specifically, accidents involving agency personnel have not been properly documented because records of accidents have been destroyed at the time a vehicle was removed from service.

The Lottery has reviewed your recommendation and has implemented a change in procedure to retain records of any accident for a period of five (5) years. The Lottery's records retention schedule has been modified to reflect this change. These records will be available for review during any disciplinary action that is considered as a result of an accident involving a Lottery employee.



w w w . m a r s h a l l . e d u

Office of the President

November 18, 2009

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Boulevard, East
Charleston, WV 25305-0610

Dear Ms. Sneed:

Marshall University is currently monitoring vehicle accidents involving our State-owned vehicles by utilizing a systematic informal investigation procedure for all accidents. Each accident is analyzed and the relevant facts surrounding the incident are reviewed; first, by the Safety and Health Department and then with the driver's supervisory personnel. This information, along with the driver's previous accident history, is used in determining any disciplinary and/or remedial action taken. Disciplinary action ranges from verbal warnings to suspension to complete revocation of driving privileges in accordance with Marshall University Board of Governors' Policy No. HR-5, Four-Part Progressive Counseling. In addition, each employee involved in a vehicle accident is required to participate in a remedial defensive driver training course made available on-line by Marshall University.

During the noted audit period of July 1, 2004-June 30, 2009, we had one driver that was involved in two accidents. This driver's privileges were immediately suspended as a result of the investigation. This decision was made after reviewing circumstances surrounding the accident, examining the driver's previous accident history and conferring with the employee's supervisor.

We will begin to incorporate our investigation procedure into a written policy for vehicle accident review.

Sincerely,

Stephen J. Kopp, Ph.D.
President

- 36 -

WE ARE... MARSHALL™

November 30, 2009

Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd, East
Charleston, WV 25305-0610

By Email and First Class Mail

Dear Director Sneed:

I have reviewed the *Special Report on Vehicle Accidents in State Vehicles* covering the period July 1, 2004 to June 30, 2009 and appreciate the opportunity to provide a formal response on behalf of Shepherd University.

While the report correctly observes that Shepherd University does not have any formal, written policies that expressly address the issue of response to multiple vehicle accidents in a state vehicle by an employee, I believe that the report omits vital information about this subject matter. In assessing the adequacy of agency-response to vehicle accidents involving state employees, the Division may have presumed that the Legislature wishes to have a very narrow question (do specific written policies exist?) answered, when the more important question may be whether agencies respond to vehicle accidents in a prudent and responsible manner.

Shepherd University has an "accident/ incident report form" which is to be completed when any accident (vehicular or otherwise) occurs resulting in personal/ property damage. If an employee has an accident of any type, a copy goes to the Safety Committee Chair (Director of Facilities, which also operates our motor pool), supervisor of the employee, HR Office, and the General Counsel. Accident Reports are discussed in the Safety Committee meetings and among administrators on an as-needed basis, particularly when the circumstances of the accident involve injury or property damage caused by the neglect of an employee. This is specified in Shepherd University Safety Policy #1, which was administratively promulgated in November 2001.

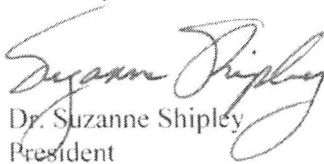
In the interest of advancing automotive safety, Shepherd University acquired a driver-training video program several years ago. Our program was briefly abated when BRIM instituted an on-line program, but we resumed our own program when it became clear that the BRIM program would not be available for a comparable use. Employees must complete our program before operating a state vehicle. There have been several occasions where an employee has been required to repeat the driver training program as a response to having an at-fault vehicle accident/ incident in a state vehicle. Usually these are single-vehicle incidents, of a minor nature. On one occasion an employee was suspended from driving any state vehicle and received a formal written reprimand in response to an at-fault vehicle accident that involved a second vehicle. [The reprimand was ultimately converted into a memo not included in the personnel file as a part of a mediated settlement of the employee's grievance complaining that the reprimand was unfair].

The report notes that two Shepherd employees had a record of two accidents, each, during the period reviewed. Each of these accidents was reviewed by the appropriate administrators, the accidents were minor "fender-benders" in parking lots, and the employee was counseled by the supervisor and was referred for the driver training video program. One of these accidents occurred while the employee was operating a tractor with a snow plow on it, removing snow.

At-fault automobile accidents are one form of neglect-of-duty that occasionally occurs with employees, but there are many circumstances that occur in an agency's operations that can create risks to persons or property. I believe that having an effective process in place to have incidents of all types documented and reviewed by a team of administrators is the best way to protect the public's interests.

The Report recommends that a single agency, presumably the Department of Administration, be assigned "oversight responsibility of all state-owned vehicle accidents." If that oversight is limited to coordinating information about accidents, the proposal is acceptable. Because I believe the agencies should maintain full discretion as to managing employees effort to establish state-wide mandates, from either the Legislature or the Department of Administration, of specific responses (such as employee discipline) to vehicle accidents would not be acceptable.

Sincerely,



Dr. Suzanne Shipley
President



STATE OF WEST VIRGINIA

Department of Revenue
State Tax Department

Joe Manchin III
Governor

Christopher G. Morris
State Tax Commissioner

MEMORANDUM

TO: Ms. Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

FROM: Craig A. Griffith, Deputy Tax Commissioner
State Tax Department *CAG*

RE: Special Report on Vehicle Accidents in State Vehicles

DATE: November 17, 2009

In Finding #2 in your Special Report on Vehicle Accidents in State Vehicles, the Tax Department was listed among five state agencies that have policies and procedures related to monitoring State-owned vehicle accidents, but do not have provisions in its policies/procedures for disciplinary action to be taken for drivers exhibiting poor driving performance or for drivers demonstrating unsafe or careless behavior while operating a State-owned vehicle.

The Tax Department has reviewed your recommendation with regard to this finding and will immediately take steps to amend our procedures in order to provide for disciplinary action against employees in certain instances.

CAG:kas

cc: Rebecca Carnefix, Internal Auditor
State Tax Department



November 24, 2009

Ms. Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division
Building 1, Room W-329
State Capitol Complex
Charleston, WV 25305-0610

Dear Ms. Sneed:

Please accept this letter as a response to your division's audit finding (number 3) pertaining to the discipline process for WVU employed drivers experiencing motor vehicle accidents.

Of the two exceptions noted to WVU's standard accident monitoring procedures, the first was an unintended oversight by WVU on the part of our Risk Management Office.

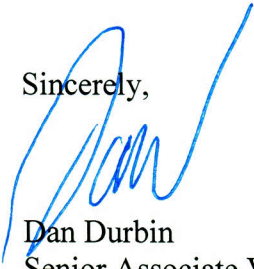
The second exception displayed extenuating circumstances that may have played a significant part in the decision not to apply WVU's *standard accident monitoring procedure*. This exception actually involved three separate events:

- 1) The first event occurred on 09/20/05. This accident was not considered the fault of the WVU driver. The at-fault driver was uninsured and BRIM made payment (to WVU) for damages.
- 2) The second event occurred on 01/02/08, while the fault of the WVU driver, resulted in no payment to the claimant by BRIM. Therefore this minor accident could be considered as this driver's first at-fault accident. The accident involved the operation of a snow plow truck in which a salt spreader was mounted on the rear of the vehicle. While backing the truck up in a snow covered parking lot, the salt spreader struck, the bumper of a parked vehicle. As noted, an accident report was completed; however the owner of the parked vehicle did not pursue damages from WVU. Again, there was no payout for this incidence.
- 3) The third event occurred on 01/15/08. This would constitute an at-fault accident (first in traffic) for this driver. If followed strictly, this accident should have triggered the *standard accident monitoring procedure*, however it did not. Some leniency was extended to the driver due to the difficulty involved when operating a snow plow truck around parked vehicles (01/02/08 accident) under slippery road conditions and the minor nature of the actual damage.

In response to these findings, WVU will memorialize a formal guideline related to monitoring driver accidents and ensure that controls are in place to assure future compliance.

If you should have any questions or require additional information please contact Dan Durbin @ 304-293-4008.

Sincerely,



Dan Durbin
Senior Associate VP of Finance

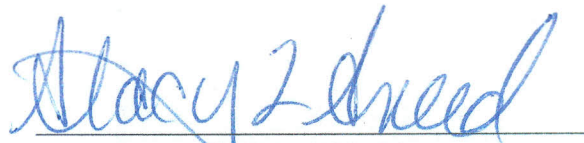
cc. James Clements
Jay Cole
William Quigley
Narvel Weese
Mike Gansor

STATE OF WEST VIRGINIA

OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:

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

Given under my hand this 8th day of December 2009.



Stacy L. Sneed, CPA, CICA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Governor's Office; the Attorney General's Office; and the State Auditor's Office; Department of Revenue (Tax Department and Lottery Commission); Bluefield State College; Coal Heritage Highway Authority; Concord University; Department of Agriculture; Department of Health & Human Resources; Division of Labor; Division of Motor Vehicles; WV Division of Natural Resources; Division of Corrections; Division of Forestry; Division of Highways; Division of Juvenile Services; Division of Rehabilitation Services; Fire Commission; General Services Division; Glenville State College; Division of Homeland Security & Emergency Management; Marshall University; Office of the Attorney General; Parkways Economic Development and Tourism Authority; Public Service Commission; Shepherd University; West Liberty University; West Virginia University Institute of Technology; West Virginia State Parks; West Virginia State Police; West Virginia University.