

State of West Virginia  
Board of Risk and Insurance Management  
2024 Annual Report





August 29, 2024

Honorable Jim Justice, Governor  
State of West Virginia

Governor Justice:

The Annual Report of the West Virginia Board of Risk and Insurance Management (BRIM) for the year ended June 30, 2024, is hereby respectfully submitted. This report was prepared by the staff of BRIM. Responsibility for both the accuracy of the presented data and the completeness and fairness of the presentation rests with the management of BRIM. We believe the data, as presented, is accurate and that it is presented in a manner designed to fairly set forth the results of the operations of BRIM. All information necessary to enable the reader to gain an understanding of BRIM's operational activities has been included.

The Annual Report contains discussions of the financial activities and highlights for the past several fiscal years, and BRIM's organization chart. The minutes of the Board of Directors meetings are attached as a supplement to this report.

BRIM is reported as an enterprise fund operating as a single business segment, included as a blended component unit of the primary government in the State's Annual Comprehensive Financial Report (ACFR). After applying the criteria set forth in generally accepted accounting principles, BRIM management has determined there are no organizations that should be considered component units of BRIM.

BRIM is governed by a five-member board appointed by the governor for terms of four years. BRIM operates by the authority granted in Chapter 29, Article 12; and Chapter 33, Article 30; of the West Virginia Code as amended, and the provisions of Executive Order 12-86. The day-to-day operations of BRIM are managed by the executive director, who is responsible for the implementation of policies and procedures established by the Board members.

BRIM is charged with providing insurance coverage to all state agencies. Additionally, BRIM provides these services to non-state entities such as cities, counties, and non-profit organizations throughout the State under the provisions of Senate Bill #3. BRIM also provides a coal mine subsidence reinsurance program, which allows homeowners and businesses to obtain insurance coverage up to \$200,000 for collapses and damage caused by underground coal mines.

BRIM uses various means to cover its insureds. Although BRIM is not indemnified by an insurance company, it contracts with an insurance company that is compensated for claims handling with a flat fee. The primary methods used by BRIM to fund claims payments results in a more stable and predictable funding of claims and claims related expenses, allowing for better cash management for the organization.

Beginning in fiscal year 1996, liability claims were handled through a “Modified Paid Loss Retrospective” rating program, which required an up-front deposit to an insurance company. As losses occur, payments and reserves are established and charged against the deposit. When the amount of paid losses within a twelve-month period exceeds the amount of the deposit, a retrospective billing is produced, and BRIM pays that additional amount to the insurance company.

Beginning in fiscal year 2006, BRIM deposited monies with a financial institution, as trustee, to hold advance deposits in an escrow account for BRIM liability claims with loss dates after June 30, 2005. The funds held in escrow, together with their earnings, will be used to fund the payment of the claims and claims adjustment expenses related to these liability claims. Periodically, monies are transferred from the escrow account to the insurance company administering these claims to reimburse the insurance company for payments that they have issued on these claims and claims adjustment expenses on BRIM’s behalf.

Property losses are retained by BRIM up to \$1 million. Additionally, excess coverage is provided beyond the \$1 million retention up to a limit of \$400 million per occurrence. This coverage provides reimbursement of loss at the stated or reported value less a \$2,500 deductible. Under the mine subsidence program, participating insurers pay BRIM a reinsurance premium, which is equal to the gross premiums collected for mine subsidence coverage, less cancellations, less a 30% ceding commission.

BRIM currently insures approximately 160 state agencies, approximately 1,000 non-state entities, plus provides mine subsidence reinsurance to approximately 15,000 home and business owners.

### **Financial Highlights**

The financial statements of BRIM are prepared on the accrual basis of accounting in conformity with generally accepted accounting principles. In 1993, the Governmental Accounting Standards Board (GASB) issued Statement No. 20, "Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting." BRIM elected to implement the provisions of this Statement beginning in fiscal year 1994. As permitted by the Statement, BRIM 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.

### **Internal Accounting Structure and Budgetary Control**

As mentioned, BRIM reports and meets the requirements of an enterprise fund. BRIM's assets and liabilities are accounted for in a single fund.

Internal controls have been put in place to ensure the assets and property of BRIM are protected from theft, loss or misuse and to provide adequate accounting data for preparing Generally Accepted Accounting Principles (GAAP) based financial statements.

Internal controls are established to provide reasonable assurance that objectives are met. Additionally, the concept of reasonable assurance should recognize that the cost to administer the control should not exceed the benefits derived from the control.

An annual budget is prepared prior to the start of each fiscal year for use as a management tool and for evaluating performance.

## **BRIM On-Line**

We invite you to visit BRIM's website at <http://www.brim.wv.gov/Pages/default.aspx>. The website is designed to inform the public about our program and to assist our customers. One feature allows claimants to submit a claim electronically for faster processing and handling. Detailed instructions on how to fill out a renewal questionnaire are also found on-line. A variety of frequently asked questions on topics ranging from billing to underwriting can also be found on this site.

## **Results of Operations**

Below are audited results from operations of four most recent fiscal years ended June 30:

BRIM has worked diligently for the past several years to maintain a positive net position and eliminate its unfunded liability. Favorable loss patterns and adequate funding have enabled BRIM to maintain a positive net position from 2005 thru 2023. BRIM may occasionally experience some adverse loss development. Premiums continue to be calculated on a basis consistent with exposure and loss trends. It is also important to note that BRIM has not received any state appropriations since 2005. BRIM will continue to closely monitor claims activity with our independent actuary and will bill premiums accordingly. Efforts are being undertaken to increase the emphasis on loss control by state agencies and non-state entities, including educational classes and seminars on sexual harassment, discrimination, liability deductibles, defensive driving classes, and personally meeting with Cabinet Secretaries to discuss loss histories of the

agencies under their supervision.

The chart below shows the net assets for the past ten years. All years shown have a positive net position.

## **Audit**

BRIM is required by the Financial Accounting and Reporting Section (FARS) of the Department of Administration to have an annual independent audit. The firm of Forvis Mazars, LLP was selected to perform the audit for the fiscal year ended June 30, 2024. The June 30, 2024, report will be available near the end of October 2024.

## **Risk Management**

BRIM is charged with providing loss control and risk management services to all insured entities throughout the State. BRIM accomplishes this task through a number of programs. All property insured by BRIM with a value of \$1 million or more is inspected annually. Additionally, BRIM holds various seminars and training programs for its insureds throughout the year. Topics include boiler operation, employment practices, and general loss prevention.

## **Cash Management**

BRIM's cash and cash equivalents are managed by the Board of Treasury Investments according to the provisions of the Code of West Virginia. BRIM management monitors cash balances on both a daily and a monthly basis.

## **Certificate of Achievement for Excellence in Financial Reporting**

The West Virginia Board of Risk and Insurance Management's Annual Comprehensive Financial Report (ACFR) for the year ended June 30, 2023, from which the information on page(s) one through thirteen have been drawn, was submitted for the award the Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers Association of the United States and Canada (GFOA). BRIM's submission for the Certificate of Achievement for its 2023 ACFR has been reviewed and BRIM was awarded the Certificate of Achievement. The Certificate of Achievement is the highest form of recognition for excellence in state and local government financial reporting. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized comprehensive annual financial report. This report must satisfy both generally accepted accounting principles and applicable legal requirements.

A Certificate of Achievement is valid for a period of one year only. We believe that our 2024 Annual Comprehensive Financial Report will meet the Certificate of Achievement Program's requirements and we will be submitting it to the GFOA to determine its eligibility for another certificate.

## **Annual Comprehensive Financial Report**

Since June 30, 1995, BRIM has issued an Annual Comprehensive Financial Report (ACFR). This report contains an introductory section, a financial section, and a statistical section. The financial section will contain audited data for June 30, 2024. The ACFR for fiscal year 2024 will be issued before December 31, 2024. A copy of this report will be sent to the Governor's Office upon completion.

## Acknowledgments

This report would not be possible without the assistance of the BRIM staff and the support of the Board members.

Sincerely,



Melody Duke  
Executive Director

## Listing of Coverages in Effect for Fiscal Year 2023

LIABILITY		LIMIT OF LIABILITY
Automobile Liability Policy No.: CA 976-749 & 976-7480 Company: National Union Fire Insurance Co.		\$ 1,000,000 per occurrence
Cyber Liability (State) Policy No.: UMR B1262F10687322 Company: Arthur J. Gallagher International		\$ 25,000,000 per occurrence
Cyber Liability (Boards of Education) Policy No.: 01-340-73-82 Company: AIG Specialty Ins. Co.		\$ 6,000,000 per occurrence
General Liability Policy No. GL6882274 & 6882275 Company: National Union Fire Insurance Co.		\$ 1,000,000 per occurrence
Aircraft Liability Policy No.: AV003380147-20 Company: National Union Fire Insurance Co.		\$ 1,000,000 per occurrence
Unmanned Aircraft Liability Policy No.: UMO28176638-08 Company: National Union Fire Insurance Co.		\$ 1,000,000 per occurrence
Excess Liability-Bd. of Education Policy No.: 6882276 Company: The Insurance Company of the State of Penn		\$ 5,000,000 per occurrence or claim
<b>PROPERTY</b>		<b>LIMIT OF LIABILITY</b>
Blanket Property Policy No.: N1-A3-PP-000033-00 Company: Munich Re \$2,250,000		\$ 10,000,000 primary layer 1,000,000 deductible
Policy No.: 0313-4553-1A Company: AWAC \$1,750,000		
Policy No.: B0507UP2205413 Company: Houston Casualty \$ 500,000		
Policy No.: B0507UP2205413 Company: Dale \$ 1,000,000		
Policy No.: W32D71220101 Company: Beazley \$ 1,500,000		
Policy No.: 01613836481 Company: Lexington \$ 3,000,000		
Policy No.: N1-A3-PP-000033-00 Company: Munich Re \$2,250,000		\$ 10,000,000 in excess of 10,000,000
Policy No.: 0313-4553-1A Company: AWAC \$1,750,000		
Policy No.: B0507UP2205413		

Company: Houston Casualty	\$ 500,000	
Policy No.: B0507UP2205413		
Company: Dale	\$ 1,000,000	
Policy No.: 73PRX22AED43		
Company: Hallmark Insurance	\$ 4,500,000	
Policy No.: D39136570001		\$ 5,000,000 in excess of
Company: Westchester	\$2,500,000	20,000,000
Policy No.: 73PRX22AED43		
Company: Axis	\$ 2,500,000	
Policy No.: NHD925986		\$ 100,000,000 in excess of
Company: RSUI		25,000,000
Policy No.: 0062502553		\$ 25,000,000 in excess of
Company: Lexington		125,000,000
Policy No.: 795019348000000		\$ 25,000,000 in excess of
Company: Intact		150,000,000
Policy No.: B0507UP2203382		\$ 125,000,000 in excess of
Company: Chubb		175,000,000
Boiler and Machinery		\$ 5,000,000 per equipment covered
Policy No.: YB2L9L469170032		in excess of 1,000,000
Company: Liberty Mutual Insurance		
Public Insurance		Variable amounts as set by Statute
Official Position Schedule Bond		
Bond No.: 106128156		
Company: Travelers		

**Source: Information compiled from the West Virginia Board of Risk and Insurance Management's internal data**



<b>Fiscal Year</b>	<b>State Agencies</b>	<b>Non-State</b>	<b>Mine Subsidence</b>	<b>House Bill 601</b>
<b>2014</b>	<b>\$ 27,226</b>	<b>\$ 22,642</b>	<b>\$ 2,220</b>	<b>\$ 40</b>
<b>2015</b>	<b>\$ 32,118</b>	<b>\$ 23,781</b>	<b>\$ 2,261</b>	<b>\$ 44</b>
<b>2016</b>	<b>\$37,688</b>	<b>\$25,147</b>	<b>\$2,398</b>	<b>\$ 60</b>
<b>2017</b>	<b>\$41,304</b>	<b>\$27,305</b>	<b>\$2,759</b>	<b>-</b>
<b>2018</b>	<b>\$45,516</b>	<b>\$29,306</b>	<b>\$4,129</b>	<b>-</b>
<b>2019</b>	<b>\$47,713</b>	<b>\$31,286</b>	<b>\$4,302</b>	<b>-</b>
<b>2020</b>	<b>\$47,675</b>	<b>\$30,524</b>	<b>\$4,368</b>	<b>-</b>
<b>2021</b>	<b>\$47,884</b>	<b>\$30,782</b>	<b>\$4,572</b>	<b>-</b>
<b>2022</b>	<b>\$48,856</b>	<b>\$32,419</b>	<b>\$4,824</b>	<b>-</b>
<b>2023</b>	<b>\$52,094</b>	<b>\$38,269</b>	<b>\$5,139</b>	<b>-</b>

The chart above shows premiums by line of business for the past ten fiscal years, expressed in thousands of dollars. This chart illustrates a general upward trend of premiums for State Agencies and Non-State customers beginning in 2014 when premiums began increasing.

Source: BRIM's internal financial statements.

**Source: Information compiled from the West Virginia Board of Risk and Insurance Management's internal data.**



STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT

Mark D. Scott  
Cabinet Secretary



Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

**AGENDA**  
**BOARD MEETING OF THE**  
**WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT**  
**Tuesday, September 19, 2023 @ 1PM**

Chairman Price

Call to Order

Chairman Price

Roll Call

Chairman Price

Approval of Board Minutes  
June 27, 2023 Meeting

**REPORTS**

Tom Sauvageot  
West Virginia Investment Management Board

Account/Investment Update

Scott Mountain/Robert Bayston  
Insight Investment

Account/Investment Update

Melody Duke  
Executive Director

Executive Director's Report

Stephen W. Panaro, CPA  
Chief Financial Officer

Financial Report  
PCard Report

JeremyC. Wolfe  
Loss Control Manager

Loss Control Report

Ashley E. Summitt  
Chief Privacy Officer

Privacy Report

**EXECUTIVE SESSION**  
**UNFINISHED BUSINESS**  
**NEW BUSINESS**  
**ADJOURNMENT**

*Idm*

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

**\*\*DRAFT\*\***

**MINUTES OF THE MEETING  
WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT  
June 27, 2023 @ 1PM**

(Meeting held in person & telephonically to practice social distancing guidelines for COVID-19 pandemic response)

**BOARD MEMBERS:** Joseph Price, Chairman  
Gordon Lane, Jr., Vice Chairman  
Leah Cooper, Member  
Tom Clark, Member  
Allan L. McVey, Board Secretary, Ex-Officio Member  
Commissioner, WV Office of the Insurance Commissioner

**BRIM PERSONNEL:** Melody Duke, Executive Director  
Robert Fisher, Deputy Director  
Stephen W. Panaro, CPA, CFO  
Jeremy Wolfe, Risk & Insurance Manager  
Ashley Summit, Chief Privacy Officer  
Woodrow White, Underwriting Manager  
Emily Fleck, Controller  
Shannon Shaffer, Claim Representative  
Jason Stover, Office Assistant  
Lora Myers, Recording Secretary

**BRIM PROGRAM REPRESENTATIVES:** Steve Fowler, BRIM Counsel  
Chuck Waugh, AIG Claim Services  
Brenda Samples, USI Insurance Services. LLC  
Bob Ayers, USI Insurance Services. LLC  
Janet Buckley, Assured Partners

**GUESTS:** Kelsey Knotts, WVU Risk Management  
Donna Hadrych, WVU Health Sciences  
Stacie Honaker, WVU Health Sciences

## **CALL TO ORDER**

- Vice Chairman Lane called the board meeting of the West Virginia Board of Risk and Insurance Management to order on Tuesday, June 27, 2023 at 1:01PM. Chairman Price attended the meeting, joining remotely and slightly late due to a schedule conflict. The meeting was held in person and by remote access also.
- Vice Chairman Lane requested all board members and meeting attendees sign in to verify their attendance and remote joiners should verify with confirmation email.

## **APPROVAL OF MINUTES**

- Vice Chairman Lane asked for a motion to approve the Minutes of the March 21, 2023, board meeting. Member Tom Clark moved the approval of the board meeting minutes from the prior meeting. The motion was seconded by Member Leah Cooper.
- No discussion, a vote took place and the MOTION ADOPTED.

## **REPORTS**

### **Executive Director's Report**

- Vice Chairman Lane called on Melody Duke for the Executive Director's Report.
- The Executive Director's Report began with a review of the Marshall University and West Virginia University Medical Malpractice Programs. The report included total deposits/disbursements to the escrow account for FY2023.
- Mrs. Duke reported on the State and Non State Liability Claim and Litigation Information. She discussed the charts outlined in her report and explained that indemnity payments, legal payments and indemnity reserves were up in May 2023 in comparison to the previous year due to some of the abuse claims.
- Six cases have been tried to verdict in 2023, three plaintiff verdicts and two defense verdicts, and a dismissed case. The Executive Director's Report also included details regarding trials, paid claims, outstanding claims, claims counts, duration and closing ratio.
- Regarding Insurance Renewals, BRIM has received several renewals for the upcoming year. The Board of Education Cyber renewal has two proposals; one from AIG (the current carrier) and the other from Starr. The Starr proposal offers a 35% premium reduction over the current premium and increased the sublimit. The current carrier has provided four options with limits from \$11,500,000 - \$25,000,000. We are reviewing to determine which option is the best. BRIM would like to purchase limits up to \$25,000,000.

The County Boards of Education Excess has received three proposals. We are currently evaluating and have returned to the market to determine if we can purchase layers to achieve an aggregate of at least \$15,000,000.

Additionally, BRIM has received preliminary indications on the property renewal. Last July 1, 2022, the incumbent primary carrier for the first \$25 million declined to renew the guarantee and had declined to be the primary. The renewal premium increased 107% going from \$4.1 million to \$8.5 million and the first \$25 million layer had 10 carriers versus 1 carrier. For the July 1, 2023, renewal, we have been provided with an estimated premium increase of 30 - 40% and we will have some new carriers as the market players have changed their participation.

- Mrs. Duke reported that BRIM will be implementing four endorsements for the 2023 liability policy for state and non-state insureds. The first is for all insureds and amends the Supplementary Payments section and includes attorney fees as part of the limit of liability. The second is for all insureds and adds "offense" as part of the limit of liability and deems "occurrence", "offense" and "loss" as related claims. This has always been the interpretation for coverage purposes but officially includes Section II Limits of Insurance. The third is for all non-state insureds and is a punitive damages exclusion for all claims, demands, actions or awards of punitive or exemplary damages. It should be noted that in the state code, punitive damages cannot be collected from political subdivisions. The final endorsement affects all non-state insureds with the exception of county boards of education. The endorsement includes definitions for abuse, claims of abuse, claimant, and interrelated claims of abuse, modifies the limit per occurrence to \$500,000 with an additional \$500,000 recovery for reasonable and necessary medical expenses actually incurred; however, psychiatric or psychological treatment are excluded. The endorsement provides for an annual aggregate per entity of \$3,000,000 and outlines time limits for reporting. The language will further tighten the claim to a single perpetrator and a "one" occurrence for interrelated claims.
- Legislative/Interim meetings were discussed during Mrs. Duke's presentation. She was asked to present a BRIM Insurance 101 for the April and May Interim Committees on Judiciary, Insurance and PEIA. Most of the questions from both committees were regarding abuse claim development and the participation of non-state entities in the BRIM program. In late May, Mrs. Duke met with Senator Tarr to discuss non-profit entities. Additional questions are expected concerning the non-state programs.
- Mrs. Duke reported that BRIM has received a draft on the Claim Audit performed on AIG Claims by Strategic Claims Direction. BRIM hopes to provide the board with the report as soon as possible. Year two will be an audit of the internal property and mine subsidence claims.
- The Risk Management Information System was reviewed during the report. A deadline of June 30, 2023, had been set for the full implementation of the Underwriting and Loss Control modules. The targeted date has been moved to September 30, 2023 due to some time setbacks. We are looking forward to moving from the legacy mainframe system.

- Mrs. Duke welcomed BRIM's new hire. Mary Ann Escarda joined our Privacy Department as a replacement for Lora Reynolds. She also welcomed Cole Burgan and Ryan Kirkpatrick who are both interns at BRIM this summer. Cole is completing an internship through Blue Ridge Community and Technical College and Ryan is participating in the Governor's Internship Program.
- Upcoming Board Meeting Schedule for 2023:  

Tuesday, September 19, 2023 @ 1PM  
 Tuesday, December 12, 2023 @ 1PM
- Announcement was made during the Executive Director's report regarding STRIMA. This year STRIMA will be held from September 11 - 15, 2023 in Little Rock, Arkansas. Robert Fisher and Woodrow White will be attending on behalf of BRIM.
- The Executive Director's Report was received and filed, a copy is attached and made part of the record.

### **BRIM Financial Report**

- Vice Chairman Lane called on Stephen Panaro to present the Chief Financial Officer's Report to the Board.
- Mr. Panaro reviewed the P-Card Report for February, March and April, 2023.
- Mr. Panaro reported on the Current Financial Results. The financial results presented are for the ten months ended April 30, 2023. The results reflect the actuarially estimated unpaid losses from AON's risk funding study as of March 31, 2023, plus an additional accrual for April.
- Net premium revenue through April has increased \$5.3 million compared to FY22. The increase reflects an increase in premiums based on the actuarial estimated loss pics.
- Retained case reserves are \$67 million higher this year compared to the prior year and actuarially estimated IBNR is \$30.5 million higher than the prior year. Combined total current and non-current claims liabilities (i.e., unpaid claims) are \$97.5 million higher than last year based on the March 31st AON actuarial study. Our reserve adjustment in the third quarter of this year was lower than the third quarter of this year was lower than the third quarter of last year due to a reduction in IBNR from the second quarter.
- Claims and claims adjustment expense of \$122.7 million is \$2.3 million dollars higher than last year due mostly to increased reserve adjustments during the current fiscal year.
- Investment income through April was \$9.8 million compared to investment losses through April 2022 of \$26.8 million. This is a positive year-over-year change of

\$38.6 million. Through April the Bank of New York trust gained \$2.2 million. Due to the short duration of the fixed income holdings in the trust (3.6 years) and increasing interest rates the returns in the trust have been fluctuating. Equity markets experienced volatility during FY22 and that trend is continuing in FY23. Our holdings with the WV Investment Management Board have increased \$5.8 million this fiscal year. \$6.8 million of that is due to investment income with a \$1 million withdrawal in September. In addition, we had \$745 thousand of interest income from the BTI through April.

- The combination of higher reinsurance premiums, increased claims expense, positive investment returns and a small increase in premium revenue resulted in a decrease in net position of \$45.3 million compared with a decrease in net position of \$84.3 million in FY22. The largest factor in this decrease was the reserve adjustments of \$62 million for the second quarter. The year-to-date negative change in net position is less than last year but is still significant.
- Our current net position of \$06.1 million includes the mine subsidence program's net position of \$31 million, leaving BRIM's unrestricted net position at \$75.1 million. This compares with a net position of \$192.5 million last year.
- Financial Markets review was covered in Mr. Panaro's report. Since our meeting in March, financial markets have continued to be volatile. The DJIA has experienced many peaks and valleys this year. with a year to date return of 2.5%. With the continued Federal Reserve rate increases and uncertainty in the economy this volatility is likely to continue.
- In testimony before Congress on June 22nd, Federal Reserve Chair Jereome Powell stated according to an article in The Wall Street Journal, the central bank didn't raise interest rates last week, slowing down the pace of increases . "We moved very quickly at the beginning; and we gradually slowed down. This is just a continuation of that, to give ourselves more time - to stretch out the time for making these decisions.
- Inflation and economic activity have not slowed as much as anticipated given the increase in interest rates. This casts doubt on how high the rates may climb. During their policy meeting the week of June 12th, Fed officials left the benchmark federal-funds rate in a range of between 5% and 5.25%. Most officials believe there will be two more increases this year taking interest rates to a 22 year high.
- Hiring continued to be strong in May with 339,000 jobs added. Through the first five months of 2023 job growth has averaged 312,000 jobs per month. Unemployment rose to 3.7 % in May following the April rate of 3.4% which tied January for the lowest rate in 53 years. The Consumer Price Index increased 4.0 percent from May 2022 - May 2023, the smallest 12 month increase since March 2021.
- Mr. Panaro reported that due to the increase in interest rates, the volatility of the stock market and inflation concerns BRIM's investment returns outlook continues to be uncertain.

- Mr. Panaro asked for questions, no questions.
- The Chief Financial Officer's Report was received and filed, a copy is attached and made part of the record.

### **Loss Control Report**

- Vice Chairman Lane called on Jeremy Wolfe to present the Loss Control Report
- Mr. Wolfe reported that during the month of May, Loss Control Questionnaires were sent to all state agencies. The deadline for submission to BRIM is August 1, 2023. At that time, we will gather necessary information for calculating loss control credits or surcharges for fiscal year 2025.
- Evaluations of fiscal year 2024 Loss Control Questionnaires were discussed. Those evaluations yielded the following results. Sixty-seven percent of the state agency program received a form of a loss control credit. Fifty-five percent of the non-state entities received a form of a loss control credit. These results show that many of our insureds are instituting risk management programs to aid in the mitigation of insurable claims.
- BRIM has extended requests to renew our contracts for insurance loss control inspection services with Tawney Insurance and Safety Solutions and our boiler and air conditioning systems insurance and loss prevention inspection services with Liberty Mutual Insurance.
- Mr. Wolfe reported that during March, April and May 2023, Tawney conducted 184 inspections and Liberty Mutual Insurance conducted 626. These reports are being processed according to established procedures.
- Mr. Wolfe included in his report that the loss control technical staff reports the following activity: 22 Standards of Participation Visits and 21 Loss Control Visits. The Standards of Participation Visits provide assistance to our insured who are seeking compliance with the BRIM Standards of Participation program. Loss Control Visits focus on all average areas and which results in information and/or control recommendations being provided.
- Mr. Wolfe asked if there were any questions, no questions.
- The Loss Control Report was received and filed, a copy is attached and made part of the record.

### **Privacy Report**

- Vice Chairman Lane called on Ashley Summitt to present the Privacy Report
- Ms. Summitt reported on Management Team Meetings. March 28, 2023, the Privacy Management Team met virtually with 71 attendees. The increase in attendance is due to a change in policy to invite all agency privacy officers, to

ensure a consistency of procedure and training. Topics presented were the National Cybersecurity Strategy by Jody Ogle (Cybersecurity and Infrastructure Security Agency), Risks of Chat GPT3, by Neil Chakrabarty (DEP's Chief Technology Officer). Due to the number of new officers attending the meeting who were unfamiliar with basic procedures and privacy, we reviewed the monthly privacy tips and how to share them as well as a basic review of incident reporting.

- The next Privacy Management Team meeting is September 26, 2023.
- The Chief Privacy Officer reported on Privacy Trainings. During the second quarter of 2023, 182 members of the Executive Branch workforce completed the online course *Privacy Awareness Training 2022*, which is a general privacy awareness training course. Also during the first quarter of 2023, 310 members of the Executive Branch workforce completed the online course, *WV Confidentiality Agreement*, which is required of all workforce members. During the same quarter, 417 members of the Executive Branch workforce completed the online course *HIPAA/HITECH*, a general training course and new *HIPAA Refresher Training (2021)* which was requested by PEIA.
- Ms. Summitt reported on the following training events held by the SPO since the last board meeting: June 7, 2023, the Chief Privacy Officer did a presentation on incident reporting/response for the WV Higher Education Policy Commission's annual meeting with the Data Management Committee.
- The State Privacy Office staff have been working on creating training modules for privacy officer orientation, which will enable officers to take the training at their own pace. This solution is an answer to the number of orientations required to keep up with training necessary for new privacy officers.
- Ms. Summitt's report also included information on Privacy Impact Assessments/Privacy Incident Response Assessments. A Privacy Impact Assessment (PIA) is a tool used to assess the privacy impact and risks to the personally identifiable information (PII) stored, used and exchanged by information systems. A PIA evaluates privacy implications when information systems are created, when existing systems are significantly modified or new technology is purchased.

Since March 26, 2023, twenty (20) PIAs have been completed and submitted.

The State Privacy Office has been meeting various members of the WV Office of Technology in an effort to find a solution to the uptick in agency requests for removable media to store data, mostly pictures/videos. The SPO is very concerned about the security of files contained on these removable storage devices. These files are considered sensitive due to the content of the pictures and videos. There is a limit to the amount of data that can be stored on Google Drive if files are not created in Google. There are some cloud storage options being reviewed by OT.

- Ms. Summitt reported on State Privacy Office Personnel. A new Administrative Assistant, Mary Ann Escarda, has been hired. She is an honors graduate from Glenville State College and was previously employed in management at the Starbucks Corporation. We are working to get Mary Ann acclimated to the Privacy Department. We are thrilled with her enthusiasm and desire to learn.

The State Privacy Office welcomes a summer IT/cybersecurity intern who is drafting a basic document in cybersecurity for the publication to and use by the Privacy Management Team and its privacy officers. Cole Burgan will graduate this summer from Blue Ridge Community and Technical College with an Associate's degree in IT and will continue on to get his Bachelor's degree in Cybersecurity from Shepherd University.

- Ms. Summitt asked for any questions, no questions.
- Privacy Report was received and filed, a copy is attached and made part of the record.

## **UNFINISHED BUSINESS**

## **NEW BUSINESS**

## **ADJOURNMENT**

- Vice Chairman Lane asked for a motion to adjourn the BRIM board meeting. Member Tom Clark moved the meeting adjournment. The motion was seconded by Member Leah Cooper.
- No discussion, a vote took place and the MOTION ADOPTED.
- The meeting adjourned.

Board Chairman \_\_\_\_\_

Date \_\_\_\_\_

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

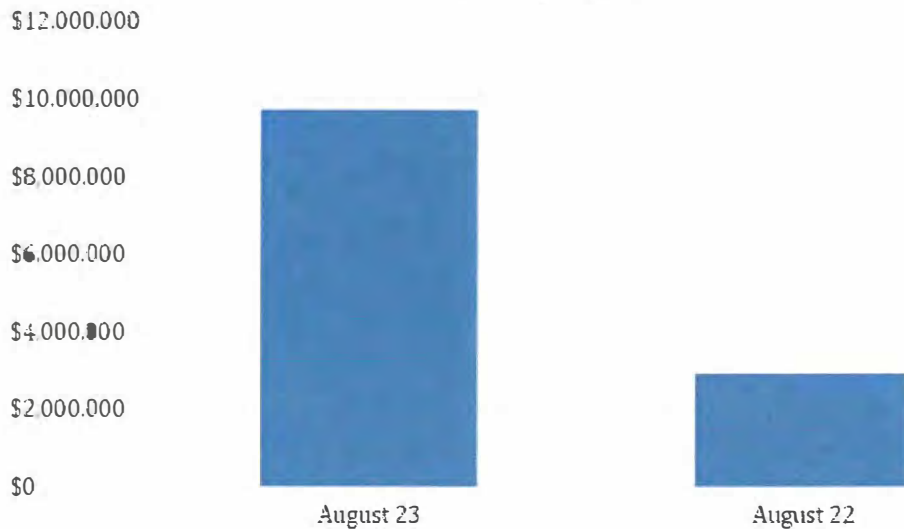
**Executive Director's Report  
September 19, 2023**

**A. Marshall University and West Virginia University Medical Malpractice Program**

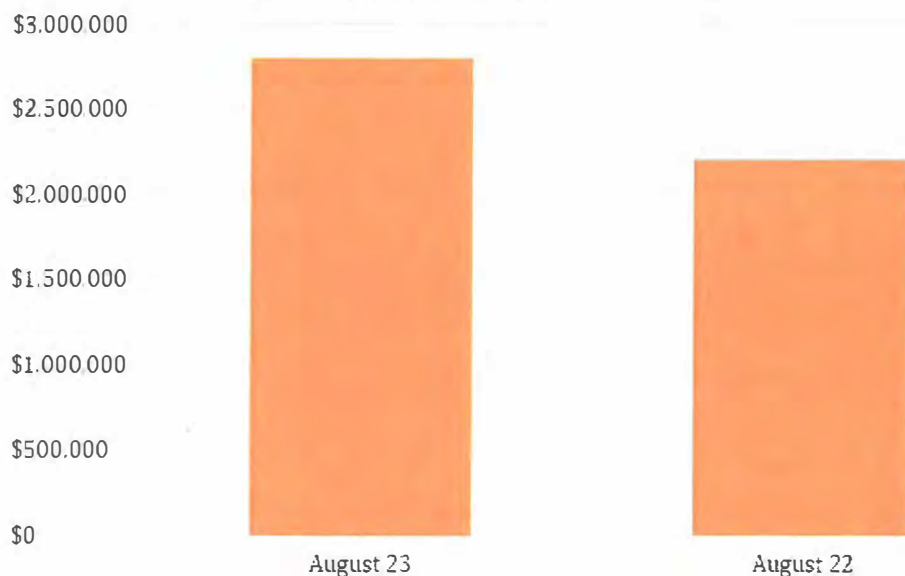
- As of September 13, 2023, Marshall has deposited \$0 into the escrow account for FY 2024. The fiscal year-to-date cumulative interest totals \$3,671.93. Disbursements totaling \$393,208.40 have been paid thus far in FY 2024.
- As of September 13, 2023, a total of \$722,209.78 has been deposited into WVU's escrow account for FY 2024. The fiscal year-to-date cumulative interest totals \$26,093.47. Disbursements totaling \$744,257.17 have been paid thus far in FY 2024.

**B. State and Non-State Liability Claims & Litigation Information**

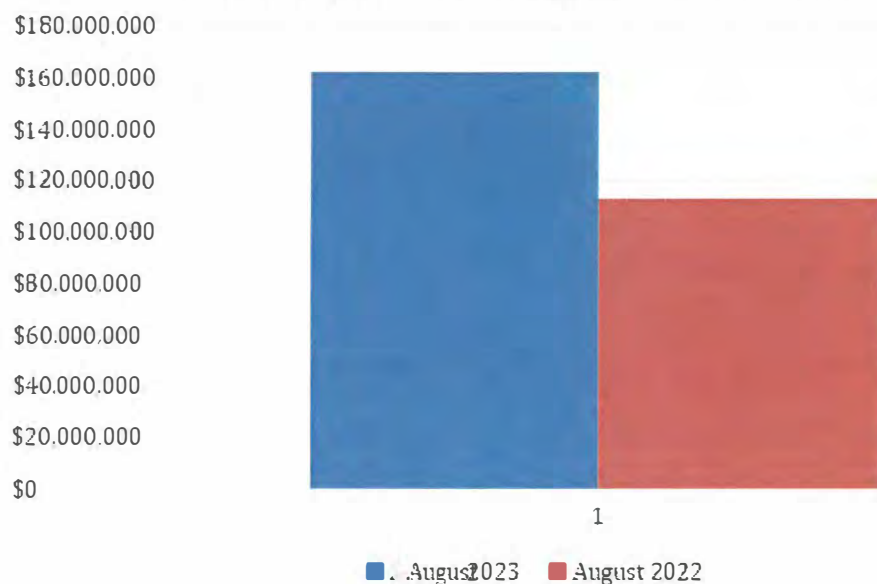
**Indemnity Payments August  
FY 24 vs FY 23**



### Legal Payments August FY 24 vs FY 23



### Indemnity Reserves August FY 24 vs FY 23



### TRIALS

We have tried eight cases to verdict so far in 2023, with four plaintiff verdicts, three defense verdicts and one case dismissed. **New cases are listed in bold print.**

**1/18/2023 (501-965583)** Insured: Goodwill Industries; Plaintiff: Ezekiel Singer; Kanawha Co. Mgt. Ct.; Case dismissed at end of trial. Plaintiff alleged he was terminated for filing OSHA violations but was discharged for multiple policy violations. Prior to trial, the demand was \$5,000 and no offer was made.

**1/31/2023 (501-732213)** Insured: Office of the WV Insurance Commissioner; Plaintiff: Rebecca Roush; Kanawha Co. Cir. Ct.; Plaintiff verdict of \$2.2 million. Plaintiff, a Chief Administrative Law

Judge for Workers' Compensation alleged gender discrimination when she was removed from her position. Demand was \$1,000,000. No offer was made. The case is currently on appeal.

2/13/2023 (501-487136) Insured: Boone Co. B.O.E.; Plaintiff: Angela Hill; Boone Co. Cir. Ct.; Defense verdict. Plaintiff alleged gender and age discrimination as the result of her not being hired for six administrative positions. The last demand was \$485,000. The last offer was \$20,000.

3/30/2023 (501-827681) Insured: Bluefield State University; Plaintiff: Sara Ballard; Mercer Co. Cir. Ct.; Plaintiff verdict of \$15,000. Plaintiff alleged she was discharged as the result of discrimination. Last demand was \$10,000. The last offer was \$2,000.

5/4/2023 (501-852072) Insured: Wyoming Co. B.O.E.; Plaintiff: Paige Hatfield; Wyoming Co. Cir. Ct.; Plaintiff verdict of \$30,000. Plaintiff was sent to alternative school as the result of threatening behavior. Demand was \$95,000. The offer was \$3,500.

5/25/2023 (501-550136) Insured: WV Fire Commission; Plaintiff: Tammy Wratchford; Hardy Co. Cir. Ct.; Defense verdict for Insured. Plaintiff alleged the insured maliciously indicated that the house fire was arson. Plaintiff's demand was \$7,000,000. No offer was made.

**8/4/2023 (501-460874) Insured: WV Regional Jail Authority; Plaintiff: Michael McDonald; Cabell Co. Cir. Ct.; Defense Verdict. Plaintiff inmate was restrained in a chair for his violent outbursts. Plaintiff's demand was \$700,000. Offer was \$200,000. Plaintiff has appealed the verdict.**

**8/23/2023 (501-251936) Insured: WV Regional Jail Authority; Plaintiff: Ruben Castillo; Kanawha Co. Coir. Ct.; Plaintiff Verdict of \$50,000. Plaintiff alleges he was severely abused. Plaintiff's demand was \$624,000. Offer was \$10,000.**

#### **PAID CLAIMS (August 2023 Data)**

August 2023 Indemnity payments total \$9,700,000 vs August 2022 payments of \$2,900,000 an increase of 234.5%.

August 2023 Legal payments total \$2,800,000 vs. August 2022 Legal payments of \$2,200,000 an increase of 27.3%.

#### **OUTSTANDING CLAIMS (August 2023 Data)**

August 2023 Indemnity reserves total \$162,200,000 vs. August 2022 Indemnity reserves of \$112,800,000 an increase of 43.8%.

August 2023 Expense reserves total \$34,900,000 vs. August 2022 Expense reserves of \$30,300,000 an increase of 15.2 %.

#### **CLAIMS COUNTS (August 2023 Data)**

August 2023 New claims of 252 vs. August 2022 of 305, a decrease of 17.4%.

August 2023 Closed claims of 322 vs. August 2022 of 274, an increase of 17.5%.

August 2023 Open claims of 1100 vs. February 2022 of 1100, the same amount.

#### **DURATION – CREATE TO CLOSED DATE CLAIMS (August 2023 Data)**

August 2023 Duration of 139 Days vs. August 2022 Duration of 94 Days, an increase of 47.2%.

## **CLOSING RATIO (August 2023 Data)**

August 2023 Closing Ratio of 127.1% vs. August 2022 Closing Ratio of 89.8%, an increase of 41.5%.

### **A. Insurance Renewals – BRIM has completed the insurance renewals for FY24.**

The Board of Education Cyber renewed at \$592,500 with total limits of \$15,000,000. The program has a new primary carrier, Starr, which has \$10,000,000 of the limit and Vantage Risk Specialty with the remaining \$5,000,000 in limit. The Ransomware sublimit changed to a two-tier approach and increased over the expiring policy of \$100,000. There is 18 BOE/Tech Centers in Tier 1 with \$3,000,000 in limit and co-insurance of 0% and Tier 2 with 44 BOE/Tech Centers with \$1,500,000 in limit and co-insurance of 25%. The expiring premium was \$575,000 for only \$10,000,000 in limits. The renewal is an increase of \$17,500 or 3%.

The State Cyber renewed at a cost of \$1,166,000 with limits of \$25,000,000 and no sublimit for Cyber Extortion. This is an increase of \$165,500 or 16% over the FY23 policy which had limits of only \$11,500,000 and had a sublimit for Cyber Extortion. The cyber market has improved over the last year.

The County Boards of Education Excess policy has been secured as a true transfer policy with Munich Re at a cost of \$2,933,868 and aggregate limit of \$15,000,000. The excess insurance for the Boards of Education had been included with the main liability policy in the trust program but due to market conditions and the increased frequency and severity of abuse claims it was necessary to eliminate this direct exposure to BRIM.

The property renewed at a cost of \$11,237,542 over the expiring of \$8,488,747. This is an increase of \$2,748,795 or 32%. There are a total of 16 carriers participating in various increments to reach the total policy limits of \$300,000,000 and TIV of \$25,237,172,430.

B. BRIM implemented four endorsements for the 2023 liability policy for both state and non-state insureds. The first is for all insureds, and it amends the Supplementary Payments section and includes attorney fees as part of the limit of liability opposed to the current form of being in addition to the limit. The second is for all insureds and adds “offenses” as part of the limit of liability and deems “occurrence”, “offense” and “loss” as related claims. This has always been the interpretation for coverage purposes but officially includes Section II Limits of Insurance. The third is for all non-state insureds and is a punitive damages exclusion for all claims, demands, actions or awards of punitive or exemplary damages. It should be noted that in the state code, punitive damages cannot be collected from political subdivisions. The final endorsement affects all non-state insureds, except county boards of education. The endorsement adds definitions for abuse, claims of abuse, claimant, and interrelated claims of abuse, modifies the limit per occurrence to \$500,000 with an additional \$500,000 recovery for reasonable and necessary medical expenses actually incurred but psychiatric or psychological treatment are excluded. The endorsement provides for an annual aggregate per entity of \$3,000,000 and provides time limitations on reporting. The language will further tighten the claim to a single perpetrator and a “one” occurrence for interrelated claims.

C. Upcoming Legislative Session – BRIM will have no proposed bills for the upcoming session, but we stand ready to respond to any inquiries or requests to attend meetings.

D. Risk Management Information System Update –We are a bit behind schedule and have moved the target implementation to January 2024. BRIM is looking forward to making the break from the legacy mainframe system.

E. STRIMA/DRJ – Robert Fisher and Woodrow White attended the STRIMA conference in Little Rock, Arkansas last week. The conference was informative about the market and other conditions facing our sister states. John Fernatt attended the Disaster Recovery Journal conference last week that was held in Phoenix, Arizona. This conference is dedicated to business resiliency and continuity. Finally, I have been asked to serve on the STRIMA board in the position of Treasurer.

F. Retirements/Internships – Long time employee, Sue McMinn will be retiring October 16, 2023, with 35 years of service. We are very sad to see her leave but know that she is leaving us to pursue a new future with her fiancé and soon to be husband. We will be having a reception on October 11<sup>th</sup> to recognize her dedication and service to BRIM.

We have retained Ryan Kirkpatrick from his summer Governor's Internship Program to continue with our record retention of Finance files. We have engaged Eric Sencindiver who is completing a Cyber Security Program through Blue Ridge Community and Technical College.

G. Upcoming Board Meeting schedule for 2023:

Tuesday, December 12, 2023 @ 1PM

Sincerely,



Melody Duke  
Executive Director

MAD/lm

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

Chief Financial Officer's Report  
September 19, 2023

**A. P-Card Report**

Electronic copies mailed to the board contain the supporting details for P-card purchases for the months of May and June 2023. These totals are:

May	\$68,178.35
June	\$50,029.79

**B. Current Financial Results**

- The financial results presented are for the twelve months ending June 30th, 2023. The results reflect the actuarially estimated unpaid losses from AON's risk funding study as of June 30, 2023.
- Net premium revenue for FY23 has increased \$5.3 million compared to FY'22. The increase reflects an increase in premiums based on the actuarial estimated loss pics.
- Retained case reserves are \$54.3 million higher this year compared to the prior year and actuarially estimated IBNR is \$27.1 million higher than the prior year. Combined total current and non-current claims liabilities (i.e., unpaid claims) are \$81.4 million higher than last year based on the June 30th AON actuarial study. Our reserve adjustment in the fourth quarter of this year was lower than the fourth quarter of last year. The overall increase in reserves this year was lower than in the prior year.
- Claims and claims adjustment expense of \$170.2 million is \$2.1 million dollars higher than last year due primarily to reserve adjustments during the current fiscal year.
- Investment income for FY23 was \$8 million compared to investment losses of \$33.7 million in FY22. This is a positive year-over-year change of \$41.7million. During FY23 the Bank of New York trust lost \$2.4 million. Because of the relatively short duration of the fixed income holdings in the trust (3.8 years) and increasing interest rates the returns in the trust have been fluctuating. Equity markets experienced volatility during FY22 and that trend continued in FY23. Our holdings with the West Virginia Investment Management Board have increased \$8.4 million this fiscal year. \$9.4 million of that is due to investment income with a \$1 million withdrawal in September. Additionally, we had \$989 thousand of interest income from the BTI for FY23.
- The combination of higher reinsurance premiums, increased claims expense, positive investment returns and a small increase in premium revenue resulted in a decrease in net position of \$81.6 million compared with a decrease in net position of \$125.5 million in FY'22. The largest factor in this decrease was the reserve

adjustments of \$81.4 million for the year. While the change in net position is less than last year it is still significant.

- Our current net position of \$69.8 million includes the mine subsidence program's net position of \$32.4 million, leaving BRIM's unrestricted net position at \$37.4 million. This compares with a net position of \$151.4 million last year.

### C. Financial Markets

Financial markets have continued to be volatile since we had our last meeting in June. The DJIA has had many peaks and valleys this year, with a year to date return of 5.3%. With the continued rate increases by the Federal Reserve and uncertainty in the economy this volatility is likely to continue.

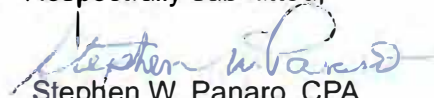
The Federal Reserve has raised interest rates at 11 of their last 12 meetings. The last increase came at their July meeting increasing rates to a range of between 5.25% and 5.5%. This put interest rates at a 22-year high. Fed officials appear to agree to hold interest rates steady when they next meet September 19<sup>th</sup> and 20<sup>th</sup>.

August saw an increase in consumer prices driven by an increase in energy costs. The consumer price index rose 0.6% in August from the previous month. Core prices, which exclude food and energy items, rose by 0.3% in August after even lower increases in June and July. In August, on an annual basis, prices were up 3.7% compared with 3.2% in July. Annual core inflation edged lower in August to 4.3% from 4.7% in July.

Unemployment rose to 3.8% in August, which is an 18-month high. Employers added 187,000 jobs in August. According to Steve Blitz, chief U.S. economist at TS Lombard, some of these increases are "backfilling" in the retail, accommodation, food services, healthcare and social services which are hiring to return to normal staffing levels. These were the job sectors most impacted by the lockdowns. If the sectors whose hiring is backfilling are excluded private sector job gains in August were 52,000.

Because of increasing interest rates, the volatility of the stock market and inflation concerns BRIM's investment returns outlook remains uncertain for FY24.

Respectfully submitted,

  
Stephen W. Panaro, CPA  
Chief Financial Officer

# West Virginia Board of Risk and Insurance Management

## Statements of Net Position

For the Twelve Months Ended June 30th

	2023	2022
	(In Thousands)	
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 24,728	\$ 14,544
Advance deposits with insurance company and trustee	236,648	243,344
Receivables	3,258	3,069
Prepaid insurance	00	0
Restricted cash and cash equivalents	5,447	13,585
Premiums due from other entities	1,536	1,222
Total current assets	271,617	275,763
Noncurrent assets:		
Equity position in internal investments pools	154,103	110,524
Restricted investments	29,754	64,938
Total noncurrent assets	183,857	175,463
Total assets	455,474	451,226
Deferred Outflows of Resources	399	434
Deferred Outflows of Resources - OPEB	59	61
<b>Liabilities</b>		
Current liabilities:		
Estimated unpaid claims and claims adjustment expense	189,423	103,306
Unearned premiums	16,638	12,208
Agent commissions payable	1,646	1,496
Claims Payable	0	52
Accrued expenses and other liabilities	689	557
Total current liabilities	208,396	117,619
Estimated unpaid claims and claims adjustment expense net of current portion	177,257	181,989
Compensated absences	192	167
Net pension liability	148	(894)
Total noncurrent liabilities	177,597	181,262
Total liabilities	385,993	298,882
Deferred Inflows of Resources	0	1,156
Deferred Inflows of Resources - OPEB	137	280
Net position:		
Restricted by State code for mine subsidence coverage:	75,988	80,155
Unrestricted	75,415	196,713
Net Assets (Deficiency)	(81,601)	(125,465)
Net position	\$ 69,802	\$ 151,403

Unaudited

# West Virginia Board of Risk and Insurance Management

## Statements of Revenues, Expenses, and Changes in Net Position

For the Twelve Months Ended June 30th

	2023	2022
	<i>(In Thousands)</i>	
<b>Operating revenues</b>		
Premiums	\$ 95,502	\$ 86,099
Less coverage/reinsurance programs	(8,969)	(4,758)
Net operating revenues	86,533	81,341
<b>Operating expenses</b>		
Claims and claims adjustment expense	170,253	168,122
General and administrative	5,845	5,009
Total operating expenses	176,098	173,131
Operating income (loss)	(89,565)	(91,790)
<b>Nonoperating revenues</b>		
Investment income	7,986	(33,670)
Legislative Appropriation	0	0
OPEB Non Operating Income	(22)	(6)
Net nonoperating revenues	7,964	(33,675)
Changes in net position	(81,601)	(125,465)
Total net position, beginning of year	151,403	276,868
Total net position, end of period	\$ 69,802	\$ 151,403

*Unaudited*

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT

---



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
[Melody.A.Duke@wv.gov](mailto:Melody.A.Duke@wv.gov)

**Loss Control Report to the Board  
September 2023**

State Agency loss control questionnaires were due on August 1, 2022. Since that time, we have been evaluating those questionnaires. The results will be used to calculate loss control credits and surcharges for next fiscal year's premium. The evaluations yielded the following results. Seventy-three percent of the state agency program will receive a form of a loss control credit. This is a slight increase from fiscal year 2024 results of sixty-seven percent.

BRIM and Liberty Mutual Insurance will sponsor two boiler safety and operational seminars in October. We are hopeful that these seminars will continue to attract large crowds and that what is learned at the seminars will help keep boiler losses minor to a minimum as they have been for many years. To date, approximately 123 individuals have registered for the seminars.

During the months of June, July, and August Tawney conducted 278 inspections and Liberty Mutual Insurance conducted 310. The reports are being processed according to established procedures.

Since my last report, our loss control technical staff reports the following activity:

**18 Loss Control Visits**

These are standard loss control visits which focus on all coverage areas and which result in information and/or loss control recommendations being provided.

**Insured Accounts Visited Include:** Westbrook Health Services, West Virginias For Life, Italian Heritage Festival, Eastern Panhandle Transit Authority, Kanawha Valley Senior Services, Harrison County Senior Citizens Center, Cabell County Solid Waste Authority, Central West Virginia Transit Authority, Webster County Senior Citizens, Inc., Berkeley County Development Authority, City of Logan, Cabell County Community Services Organization, Raleigh County Board of Education, Cabell County Board of Education, Healthnet Aeromedical Services, Williamson Health & Wellness Center, Berkeley County Board of Education, and Wayne County Board of Education.

## 11 Standards of Participation Visits

These are visits which are designed to provide assistance to our insured Participation program.

**Insured Accounts Visited Include:** West Virginia Deaf Service Center, City of St. Albans, West Virginia Division of Labor, Hungry Lamb Food Initiative, West Virginia Division of Juvenile Services, Mid-Ohio Valley Fellowship Home, Mid-Ohio Valley Transit Authority, Monongalia County Urban Mass Transit Authority, Tri-River Transit Authority, Concord University, and Dunbar Recreation Center.

As is the case each year, the number of loss control visits is markedly reduced during the period in which we evaluate loss control questionnaire submissions.

Dated: 9/13/23

Respectfully submitted,



Jeremy C. Wolfe

Risk & Insurance Manager

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director

## Chief Privacy Officer's Report September 19, 2023

### A. Management Team Meetings

- On June 6, 2023, the Privacy Management Team met virtually with 72 attendees. The increase in attendance is due to a policy change to invite not only departmental privacy officers, but all agency privacy officers, to ensure a consistency of procedure and training. The topics presented were the National Cybersecurity Strategy discussed by Jody Ogle (Cybersecurity and Infrastructure Security Agency), Risks of Chat GPT3, discussed by Neil Chakrabarty (DEP's Chief Technology Officer). Because we had so many new officers attend the meeting, who perhaps were not as familiar with some of the basic procedures around privacy, we went over the purpose of monthly privacy tips and how to share them, and a basic overview of incident reporting.
- The next Privacy Management Team is September 26, 2023. Subjects that will be covered will be: an update on Retention Policies and Processes, Crime and Privacy - WV Fusion Center, Update on the State's Cyber Coverage, and Incident Management and the need for Data Preservation.
- The State Privacy Office has begun planning for our next Privacy Retreat for 2024. This is tentatively scheduled for June 10-12, 2024 and will be located at a West Virginia State Park. Our tentative theme for the retreat is the *Importance of Partnerships in Protecting Data Privacy*, with a very exciting keynote speaker, **Cabinet Secretary Mark Scott**, on our confirmed list.

### B. Privacy Training

- During the Third Quarter of 2023, 225 members of the Executive Branch workforce completed the online course *Privacy Awareness Training 2022*, which is a general privacy awareness training.
- During the Third Quarter of 2023, 469 members of the Executive Branch workforce completed the online course *WV Confidentiality Agreement*, which is required of all workforce members.
- During the Third Quarter of 2023, the Executive Branch workforce completed 412 the online courses *HIPAA/HITECH*, which is a general HIPAA training course and a new *HIPAA Refresher Training (2021)* which PEIA has requested.

The following training events were held by the SPO since the last board meeting:

- July 25 -27, 2023, the CPO attended the National Association of Chief Information Officers (NASCIO) Annual Summit for Chief Privacy Officers.
- On August 30, 2023, the CPO presented the Purchasing annual webinar to agency procurement officers, entitled "Purchasing as a Privacy Powerhouse."
- The State Privacy Office created an introductory slide show for new employees to the Department of Administration for the DOA's intranet resource that introduces the State Privacy Program to new DOA employees.

#### **C. Privacy Impact Assessments/ Privacy Incident Response Assessments**

- A privacy impact assessment (PIA) is a tool used to assess the privacy impact and risks to the personally identifiable information (PII) stored, used, and exchanged by information systems. A PIA evaluates privacy implications when information systems are created, when existing systems are significantly modified, or new technology is purchased.
- Since June 30, 2023, 7 PIAs have been completed and submitted.
- The Privacy Office has added a new section providing detailed information and explanations regarding the Privacy Impact Assessment to all of our comprehensive orientations and presentations. Hopefully the new explanations of the PIA process will help smooth the review process of these important documents.

#### **D. State Privacy Office Personnel**

- The State Privacy Office has taken on an IT/cybersecurity intern for the fall who is creating an online recorded module regarding the HIPAA Security Rule as an orientation for new and refresher privacy officers of the State's HIPAA covered entities. Eric Sencindiver will graduate in December from Blue Ridge Community and Technical College with an Associate's degree in IT.

Very truly yours,

**Ashley Summitt**

Ashley Summitt, JD  
Chief Privacy Officer  
WV Executive Branch

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
[Melody.A.Duke@wv.gov](mailto:Melody.A.Duke@wv.gov)

**AGENDA**  
**BOARD MEETING OF THE**  
**WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT**  
**Tuesday, December 12, 2023**

Chairman Price

Call to Order

Chairman Price

Roll Call

Chairman Price

Approval of Board Minutes  
September 19, 2023

**REPORTS**

Norman Mosrie, Partner  
FORVIS, LLP

Audited Financial Report  
June 30, 2023  
FORVIS, LLP

Robert A. Fisher  
Deputy Director

Executive Director's Report  
(Presenting for Melody Duke)

Stephen W. Panaro, CPA  
Chief Financial Officer

Financial Report  
PCard Report

Jeremy C. Wolfe  
Loss Control Manager

Loss Control Report

Ashley E. Summit  
Chief Privacy Officer

Privacy Report

**UNFINISHED BUSINESS**

**NEW BUSINESS**

**ADJOURNMENT**

Idm

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

**\*\*DRAFT\*\***

**MINUTES OF THE MEETING  
WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT  
September 19, 2023 @ 1PM**

(Meeting held in person & telephonically to practice social distancing guidelines for COVID-19 pandemic response)

**BOARD MEMBERS:** Joseph Price, Chairman  
Gordon Lane, Jr., Vice Chairman  
Leah Cooper, Member  
Kristin Boggs, Member  
Tom Clark, Member  
Allan L. McVey, Board Secretary, Ex-Officio Member  
Commissioner, WV Office of the Insurance Commissioner

**BRIM PERSONNEL:** Melody Duke, Executive Director  
Robert Fisher, Deputy Director  
Stephen W. Panaro, CPA, CFO  
Jeremy Wolfe, Risk & Insurance Manager  
Ashley Summit, Chief Privacy Officer  
Woodrow White, Underwriting Manager  
John L. Fernatt, Deputy Claims Manager  
Emily Fleck, Controller  
Valerie C. Poindexter, Claim Representative  
Shannon Shaffer, Claim Representative  
Jason Stover, Office Assistant  
Lora Myers, Recording Secretary

**BRIM PROGRAM  
REPRESENTATIVES:** Steve Fowler, BRIM Counsel  
Chuck Waugh, AIG Claim Services  
Brenda Samples, USI Insurance Services. LLC  
Bob Ayers, USI Insurance Services. LLC

**GUESTS:** Kelsey Knotts, WVU Risk Management  
Donna Hadrych, WVU Health Sciences  
Stacie Honaker, WVU Health Sciences  
Tom Sauvageot, WV Investment Management Board  
Ryan Owens, WV Investment Management Board

GUESTS (continued):      Scott Mountain, Insight Investment  
Robert Bayston, Insight Investment  
Peter Shirley, Director, WV Legislature Division  
   of Regulatory and Fiscal Affairs  
Elizabeth Schindzielorz, Counsel, WV Senate Committee  
   on the Judiciary

## **CALL TO ORDER**

- Vice Chairman Lane (assisting Chairman Price) called the board meeting of the West Virginia Board of Risk and Insurance Management to order on Tuesday, September 19, 2023 at 1:07PM. The meeting was held in person and by remote access as well.
- Vice Chairman Lane requested all board members and meeting attendees sign in to verify their attendance and remote joiners should verify with confirmation email.

## **APPROVAL OF MINUTES**

- Vice Chairman Lane asked for a motion to approve the Minutes of the June 27, 2023, board meeting. Chairman Price moved the approval of the board meeting minutes from the prior meeting. The motion was seconded by Member Leah Cooper.
- No discussion, a vote took place and the MOTION ADOPTED.

## **REPORTS**

### **West Virginia Investment Management Board**

- Tom Sauvageot was welcomed to present for the West Virginia Investment Management Board. Mr. Sauvageot was joined by Ryan Owens. Mr. Sauvageot extended his appreciation for the opportunity to present.
- Mr. Sauvageot reviewed the BRIM Investment Review which was emailed prior to the Board Meeting. The Investment Review covered Market Highlights which showed inflation down and positive growth. He reported that risky assets have performed well while fixed income returns were flat.
- Asset Allocation; Performance; and Asset Class Performance were discussed and reviewed. The past three year period has been steady. The private additions have been a good addition.
- Mr. Sauvageot and Mr. Owens asked for any questions, no questions. The WV Investment Management Board - BRIM Investment Review was received, a copy is attached and made part of the record.

## **Insight Investment**

- Scott Mountain and Robert Bayston were welcomed to present for Insight Investment. Mr. Mountain thanked BRIM for the opportunity to make an appearance and to meet with Stephen Panaro and Melody Duke who work together on a daily basis.
- A handout which was emailed prior to the meeting was reviewed. The first section detailed was the Corporate Overview which included detailed biographies. Investment philosophy was also outlined as well as Client commitment.
- Mr. Bayston directed the group to Page 9 and reviewed it thoroughly. This section is the Market Update - YTD 2023. The Portfolio Performance section was also reviewed and was positive.
- The Economic & Investment Outlook section of the handout was discussed. Key takeaways include: the US economy is sending mixed messages with momentum diverging across various elements of the economy; sticky inflation will likely force the Feds to hike interest rates; and we continue to see tighter credit conditions and higher interest rates. Predictions see an increase in the labor market.
- Mr. Mountain and Mr. Bayston offered to answer questions, no questions. The Insight Investment - State of WV - BRIM Review was received, a copy is attached and made part of the record.

## **Executive Director's Report**

- Melody Duke began her Executive Director's Report by thanking our guests for their reports from WV Investment Management Board and Insight Investment.
- The Executive Director's Report began with a review of the Marshall University and West Virginia University Medical Malpractice Programs. The report included total deposits/disbursements to the escrow account for FY2024.
- Mrs. Duke reported on the State and Non State Liability Claim and Litigation Information. She reviewed charts provided in her report and explained indemnity payments, legal payments and indemnity reserves.
- Eight cases have been tried to verdict in 2023, four plaintiff verdicts and three defense verdicts, and a dismissed case. The Executive Director's Report also included details regarding trials, paid claims, outstanding claims, claims counts, duration and closing ratio.
- Insurance Renewals have been completed by BRIM for FY24. The Board of Education Cyber renewed at \$592,500 with limits of \$15,000,000. The new primary carrier is Starr. The Ransomware sublimit changed to a two-tier approach and increased over the expiring policy of \$100,000. There are 18 BOE/Tech Centers in Tier 1 with \$3,000,000 in limit and co-insurance of 0%. Tier

2 has 44 BOE/Tech Centers with \$1,500,000 in limit and co-insurance of 25%. The expiring premium was \$575,000 for only \$10,000,000 in limits. The renewal is an increase of \$17,500 or 3%.

- The State Cyber renewed at a cpst of \$1,166,000 with limits of \$25,000,000 and no sublimit for Cyber Extortion. This is an increase of \$165,500 or 16% over the FY23 policy which had limits of \$11,5000,000 and had a sublimit for Cyber Extortion. The cyber market has made improvements in the last year.
- The County Boards of Education Excess policy has been secured as a true transfer policy with Munich Re at a cost of \$2,933,868 and aggregate limit of \$15,000,000. The excess insurance for the Boards of Education had been included with the main liability policy in the trust program but due to market conditions and the increased frequency and severity of abuse claims it was necessary to eliminate this direct exposure to BRIM.
- The property renewed at a cost \$11,237,542 over the expiring of \$8,488,747. This is an increase of 32%. A total of 16 carriers are participating in various increments to reach total policy limits of \$300,000,000.
- Mrs. Duke reported BRIM has implemented four endorsements for the 2023 liability policy for state and non-state insureds. The first is for all insureds and amends the Supplementary Payments section and includes attorney fees as part of the limit of liability. The second is for all insureds and adds "offenses" as part of the limit of liability and deems "occurrence", "offense" and "loss" as related claims. This has always been the interpretation for coverage purposes but officially includes Section II Limits of Insurance. The third is for all non-state insureds and is a punitive damages exclusion for all claims, demands, actions or awards of punitive or exemplary damages. It should be noted that in the state code, punitive damages cannot be collected from political subdivisions. The final endorsement affects all non-state insureds with the exception of county boards of education. The endorsement includes definitions for abuse, claims of abuse, claimant, and interrelated claims of abuse, modifies the limit per occurrence to \$500,000 with an additional \$500,000 recovery for reasonable and necessary medical expenses actually incurred; however, psychiatric or psychological treatment are excluded. The endorsement provides for an annual aggregate per entity of \$3,000,000 and outlines time limits for reporting. The language will further tighten the claim to a single perpetrator and a "one" occurrence for interrelated claims.
- During the upcoming Legislative Session, BRIM will have no proposed bills for the upcoming session, but we are ready to respond to any requests to attend meetings.
- The Risk Management Information System was updated during the Executive Director's Report. We have fallen a little behind schedule and have moved the target implementation to January 2024. BRIM is anxiously awaiting breaking away from the mainframe system.

- STRIMA was attended this year in Little Rock, Arkansas by Robert Fisher and Woodrow White. The conference was very informative about the market and other conditions facing our sister states. The Disaster Recovery Journal conference was held in Phoenix, Arizona and attended by John Fernatt. The conference focused on business resiliency and continuity. Additionally, Mrs. Duke announced that she has been asked to serve on the STRIMA board as the Treasurer.
- Mrs. Duke informed the board of our long time employee, Sue McMinn's upcoming retirement. She will be leaving us on October 16, 2023 with 35 years of service. We will be sad to see her go but wish her the best future with her approaching marriage. We will be celebrating Sue with a reception on October 11, 2023, to recognize her service and dedication to our agency.
- Ryan Kirkpatrick from the summer Governor's Internship Program has been retained to continue with our record retention of Finance files. We have engaged Eric Sencindiver who is completing a Cyber Security Program through Blue Ridge Community and Technical College.
- Upcoming Board Meeting Schedule for 2023:

Tuesday, December 12, 2023 @ 1PM

- The Executive Director's Report was received and filed, a copy is attached and made part of the record.

### **BRIM Financial Report**

- Stephen Panaro was called upon to present the Chief Financial Officer's Report to the Board.
- Mr. Panaro reviewed the P-Card Report for May and June, 2023.
- Mr. Panaro reported on the Current Financial Results. The financial results presented are for the twelve months ended June 30, 2023. The results reflect the actuarially estimated unpaid losses from AON's risk funding study as of June 30, 2023.
- Net premium revenue for FY23 has increased \$5.3 million compared to FY22. The increase reflects an increase in premiums based on the actuarial estimated loss pics.
- Retained case reserves are \$54.3 million higher this year compared to the prior year and actuarially estimated IBNR is \$27.1 million higher than the prior year. Combined total current and non-current claims liabilities (i.e., unpaid claims) are \$81.4 million higher than last year based on the June 30th AON actuarial study. Our reserve adjustment in the fourth quarter was lower than the fourth quarter of last year.

- Claims and claims adjustment expense of \$170.2 million is \$2.1 million dollars higher than last year due mostly to reserve adjustments during the current fiscal year.
- Investment income for FY23 was \$8 million compared to investment losses of \$33.7 million in FY22. This is a positive year-over-year change of \$41.7 million. During FY23 the Bank of New York trust lost \$24 million. Due to the short duration of the fixed income holdings in the trust (3.8 years) and increasing interest rates the returns in the trust have been fluctuating. Equity markets experienced volatility during FY22 and the trend continued in FY23. Holdings with the WV Investment Management Board have increased \$8.4 million this fiscal year. \$9.4 million of that is due to investment income with a \$1 million withdrawal in September. Also, we had \$989 thousand of interest income from the BTI for FY23.
- The combination of higher reinsurance premiums, increased claims expense, positive investment returns and a small increase in premium revenue resulted in a decrease in net position of \$81.6 million compared with a decrease in net position of \$125.5 million in FY22. The largest factor in this decrease was the reserve adjustments of \$81.4 million for the year.
- Our current net position of \$69.8 million includes the mine subsidence program's net position of \$32.4 million, leaving BRIM's unrestricted net position at \$37.4 million. This compares with a net position of \$151.4 million last year.
- Mr. Panaro reviewed the Financial Markets. Since our last meeting financial markets have continued to be volatile. The DJIA has experienced many peaks and valleys this year. with a year to date return of 5.3%. With the continued Federal Reserve rate increases and uncertainty in the economy, volatility will likely continue.
- The Federal Reserve has raised interest rates at 11 of their last 12 meetings. The last increase during the July meeting increased rates to a range of between 6.25% and 5.5%. This put interest rates at a 22 year high. Feds appear to agree to hold interest rates steady when they next meet.
- During August an increase in consumer prices was driven by an increase in energy costs. The consumer price index rose .06% in August from the previous month. Core prices, which exclude food and energy items, rose by 0.3% in August after even lower increases in June and July. Annual core inflation edged lower in August to 4.3% from 4.7% in July.
- Unemployment rose to 3.8% in August, which is an 18 month high. Employers added 187,000 jobs in August. According to Steve Blitz, chief U. S. economist at TS Lombard, some of the increases are backfilling in the retail, accommodation, food services, healthcare, and social services which are hiring to get back to normal staffing levels. These were the job sectors most impacted by the lockdowns.

- Due to increasing interest rates, the volatility of the stock market and inflation concerns BRIM's investment returns outlook remains uncertain for FY24.
- Mr. Panaro asked for questions, no questions. The Chief Financial Officer's Report was received and filed, a copy is attached and made part of the record.

### **Loss Control Report**

- Jeremy Wolfe was called upon to present the Loss Control Report
- Mr. Wolfe reported that State agency loss control questionnaires were due on August 1st. Since then, the questionnaires have been in the evaluation process. The results will be used to calculate loss control credits and surcharges for premiums for the following fiscal year. 73% of the state agency program will receive a form of a loss control credit. This is a slight increase from the prior year results at 67%.
- BRIM and Liberty Mutual Insurance will sponsor two boiler safety and operational seminars during October. We hope these seminars will continue to attract large groups. We are also hopeful that the information obtained from the seminars will help keep boiler losses to a minimum as they have been for many years. Approximately 123 people have registered for the seminar.
- Mr. Wolfe reported that during June, July and August 2023, Tawney conducted 278 inspections and Liberty Mutual Insurance conducted 310. These reports are being processed.
- Mr. Wolfe included in his report that our loss control technical staff reports the following activity:
  - 18 Loss Control Visits - these are standard visits which focus on all average areas and which result in information and/or loss control recommendations being provided.
  - 11 Standards of Participation Visits - these are visits which are designed to provide assistance to our insured Participation program.
- The number of loss control visits is notably reduced each year during the evaluation of the loss control questionnaires. Mr. Wolfe asked if there were any questions, no questions. The Loss Control Report was received and filed, a copy is attached and made part of the record.

### **Privacy Report**

- Ashley Summitt was asked to present the Privacy Report
- Ms. Summitt reported on Management Team Meetings. June 6, 2023, the Privacy Management Team met virtually with 72 attendees. The increase in attendance is due to a change in policy to invite all agency privacy officers, to ensure a consistency of procedure and training. Topics presented were the National

Cybersecurity Strategy by Jody Ogle (Cybersecurity and Infrastructure Security Agency), Risks of Chat GPT3, by Neil Chakrabarty (DEP's Chief Technology Officer). Due to the number of new officers attending the meeting who were unfamiliar with basic procedures and privacy, we reviewed the monthly privacy tips and how to share them as well as a basic review of incident reporting.

- The next Privacy Management Team meeting is September 26, 2023. Subjects to be covered will be an update on Retention Policies and Processes; Crime and Privacy - WV Fusion Center; Update on the State's Cyber Coverage; and Incident Management and the need for Data Preservation.
- The State Privacy Office has started planning for the next Privacy Retreat for 2024. This is tentatively scheduled for June 10 - 12, 2024 at a West Virginia State Park. Tentatively our theme will be Importance of Partnerships in Protecting Data Privacy. We have an exciting keynote speaker, Cabinet Secretary Mark Scott on our list.
- The Chief Privacy Officer reported on Privacy Trainings. During the third quarter of 2023, 225 members of the Executive Branch workforce completed the online course *Privacy Awareness Training 2022*, which is a general privacy awareness training course. Also during the third quarter of 2023, 469 members of the Executive Branch workforce completed the online course, *WV Confidentiality Agreement*, which is required of all workforce members. During the same quarter, 412 members of the Executive Branch workforce completed the online course *HIPAA/HITECH*, a general training course and new *HIPAA Refresher Training (2021)* which was requested by PEIA.
- Ms. Summitt reported on the following training events held by the SPO since the last board meeting:

July 25 - 27, 2023, the CPO attended the National Association of Chief Information Officers (NASCIO) Annual Summit for Chief Privacy Officers.

On August 30, 2023, the CPO presented the Purchasing Annual Webinar to agency procurement officers, entitled "Purchasing as a Privacy Powerhouse."

The State Privacy Office created an introductory slide show for new employees to the Department of Administration for the DOA's intranet resource that introduces the State Privacy Program to new employees.

- Ms. Summitt's report also included information on Privacy Impact Assessments/Privacy Incident Response Assessments. A Privacy Impact Assessment (PIA) is a tool used to assess the privacy impact and risks to the personally identifiable information (PII) stored, used and exchanged by information systems. A PIA evaluates privacy implications when information systems are created, when existing systems are significantly modified or new technology is purchased.

- Since June 30, 2023, 7 PIAs have been completed and submitted.
- The Privacy Office has added a new section providing detailed information and explanation regarding the Privacy Impact Assessment to all of our comprehensive orientations and presentations. Hopefully, the new explanations of PIA processes will smooth the review process of these documents.
- Ms. Summitt reported on State Privacy Office Personnel. A new Administrative Assistant, Mary Ann Escarda, has been hired. She is an honors graduate from Glenville State College and was previously employed in management at the Starbucks Corporation. We are working to get Mary Ann acclimated to the Privacy Department. We are thrilled with her enthusiasm and desire to learn.
- The Chief Privacy Officer reported that the State Privacy Office has taken on an IT/cybersecurity intern for the fall who is creating an on-line recorded module regarding the HIPAA Security Rule as an orientation for new and refresher privacy officers of the state's HIPAA covered entities. Eric Sencindiver will graduate in December from Blue Ridge Community and Technical College with an Associate's degree in IT.
- Ms. Summitt asked for any questions, no questions. Privacy Report was received and filed, a copy is attached and made part of the record.

## **EXECUTIVE SESSION**

- Vice Chairman Lane asked for a motion to go into Executive Session. Chairman Price moved the meeting into Executive Session. The motion was seconded by Member Leah Cooper.
- Vice Chairman Lane asked for a motion to return to the BRIM board meeting. Chairman Price moved the meeting return to the BRIM board meeting. The motion was seconded by Member Leah Cooper.

## **UNFINISHED BUSINESS**

## **NEW BUSINESS**

## **ADJOURNMENT**

- Vice Chairman Lane asked for a motion to adjourn the BRIM board meeting. Chairman Price moved the meeting adjournment. The motion was seconded by Member Tom Clark.
- No discussion, a vote took place and the MOTION ADOPTED. The meeting adjourned.

Board Chairman \_\_\_\_\_

Date \_\_\_\_\_

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
[Melody.A.Duke@wv.gov](mailto:Melody.A.Duke@wv.gov)

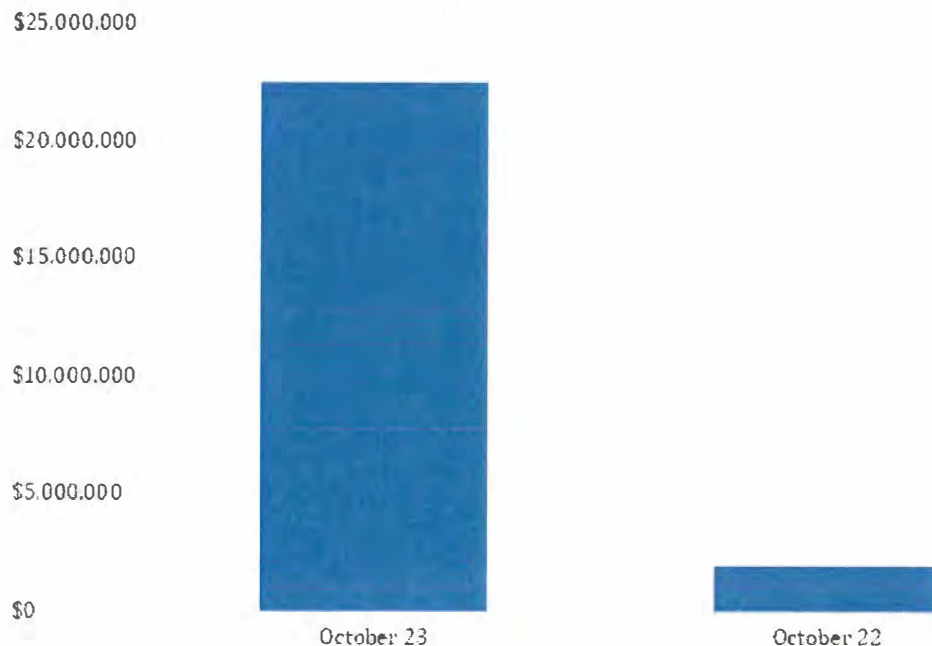
**Executive Director's Report  
December 12, 2023**

**A. Marshall University and West Virginia University Medical Malpractice Program**

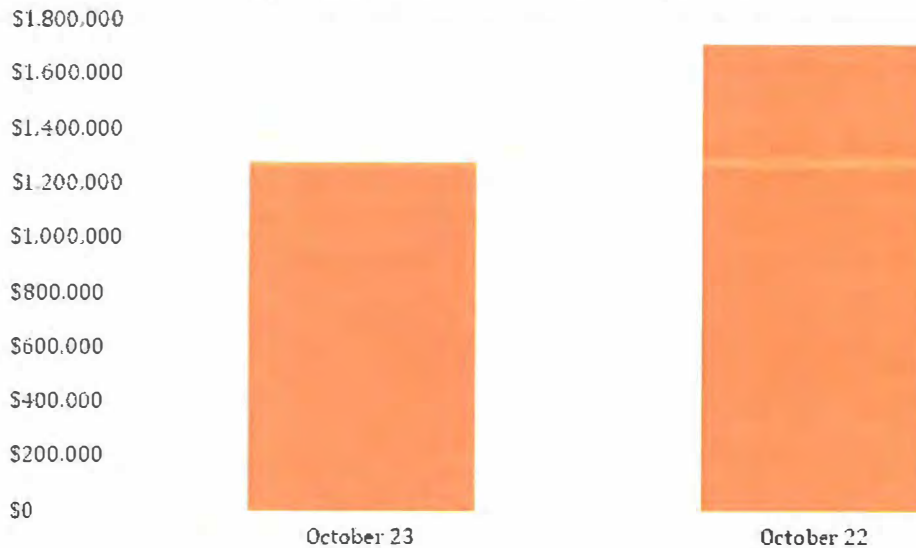
- As of November 22, 2023, Marshall has deposited \$1,250,000 into the escrow account for FY 2024. The fiscal year-to-date cumulative interest totals \$11,618.91. Disbursements totaling \$764,414.30 have been paid thus far in FY 2024.
- As of November 22, 2023, a total of \$2,183,329.83 has been deposited into WVU's escrow account for FY 2024. The fiscal year-to-date cumulative interest totals \$51,164.34. Disbursements totaling \$4,210,749.01 have been paid thus far in FY 2024.

**B. State and Non-State Liability Claims & Litigation Information**

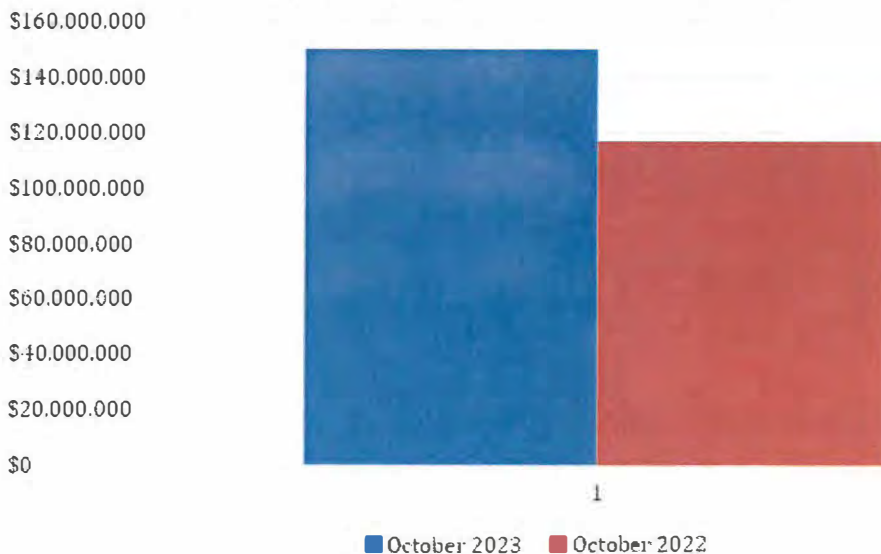
**Indemnity Payments October  
FY 24 vs FY 23**



### Legal Payments October FY 24 vs FY 23



### Indemnity Reserves October FY 24 vs FY 23



## TRIALS

We have tried eight cases to verdict so far in 2023, with four plaintiff verdicts, three defense verdicts and one case dismissed. **New cases are listed in bold print.**

**1/18/2023 (501-965583)** Insured: Goodwill Industries; Plaintiff: Ezekiel Singer; Kanawha Co. Mgt. Ct.; Case dismissed at end of trial. Plaintiff alleged he was terminated for filing OSHA violations but was discharged for multiple policy violations. Prior to trial, the demand was \$5,000 and no offer was made.

**1/31/2023 (501-732213)** Insured: Office of the WV Insurance Commissioner; Plaintiff: Rebecca Roush; Kanawha Co. Cir. Ct.; Plaintiff verdict of \$2.2 million. Plaintiff, a Chief Administrative Law Judge for Workers' Compensation alleged gender discrimination when she was removed from her position. Demand was \$1,000,000. No offer was made. The case is currently on appeal.

2/13/2023 (501-487136) Insured: Boone Co. B.O.E.; Plaintiff: Angela Hill; Boone Co. Cir. Ct.; Defense verdict. Plaintiff alleged gender and age discrimination as the result of her not being hired for six administrative positions. The last demand was \$485,000. The last offer was \$20,000.

3/30/2023 (501-827681) Insured: Bluefield State University; Plaintiff: Sara Ballard; Mercer Co. Cir. Ct.; Plaintiff verdict of \$15,000. Plaintiff alleged she was discharged as the result of discrimination. Last demand was \$10,000. The last offer was \$2,000.

5/4/2023 (501-852072) Insured: Wyoming Co. B.O.E.; Plaintiff: Paige Hatfield; Wyoming Co. Cir. Ct.; Plaintiff verdict of \$30,000. Plaintiff was sent to alternative school as the result of threatening behavior. Demand was \$95,000. The offer was \$3,500.

5/25/2023 (501-550136) Insured: WV Fire Commission; Plaintiff: Tammy Wratchford; Hardy Co. Cir. Ct.; Defense verdict for Insured. Plaintiff alleged the insured maliciously indicated that the house fire was arson. Plaintiff's demand was \$7,000,000. No offer was made.

8/4/2023 (501-460874) Insured: WV Regional Jail Authority; Plaintiff: Michael McDonald; Cabell Co. Cir. Ct.; Defense Verdict. Plaintiff inmate was restrained in a chair for his violent outbursts. Plaintiff's demand was \$700,000. The offer was \$200,000. Plaintiff has appealed the verdict.

8/23/2023 (501-251936) Insured: WV Regional Jail Authority; Plaintiff: Ruben Castillo; Kanawha Co. Coir. Ct.; Plaintiff Verdict of \$50,000. Plaintiff alleges he was severely abused. Plaintiff's demand was \$624,000. The offer was \$10,000.

9/27/2023 (501-954170) Insured: WV State Police; Plaintiff: Douglas Randolph; U.S. Dist. Ct. So. WV; Defense Verdict. Plaintiff alleged excessive force when arrested. Plaintiff's demand was \$10,000. Offer was \$1,000.

10/25/2023 (501-700303) Insured: Shepherd University; Plaintiff: Mengyang Li; U.S. Dist. Ct. No. WV; Directed Verdict. Plaintiff claimed discrimination and was ultimately terminated. Plaintiff's demand was \$500,000. The offer was \$65,000 and \$120,000 from the Insured. Dr. Li will most likely appeal.

#### **PAID CLAIMS (October 2023 Data)**

October 2023 Indemnity payments total \$22,416,913 vs October 2022 payments of \$1,901,634 an increase of 1078.8%.

October 2023 Legal payments total \$1,277,302 vs. October 2022 Legal payments of \$1,701,437 a decrease of 24.9%.

#### **OUTSTANDING CLAIMS (October 2023 Data)**

October 2023 Indemnity reserves total \$150,217,124 vs. October 2022 Indemnity reserves of \$116,931,699 an increase of 28.5%.

October 2023 Expense reserves total \$37,754,942 vs. October 2022 Expense reserves of \$30,966,482 an increase of 5.9%.

### **CLAIMS COUNTS (October 2023 Data)**

October 2023 New claims of 298 vs. October 2022 of 311, a decrease of 4.2%.

October 2023 Closed claims of 357 vs. October 2022 of 314, an increase of 13.6%.

October 2023 Open claims of 1193 vs. October 2022 of 1048, an increase of 13.8%.

### **DURATION – CREATE TO CLOSED DATE CLAIMS (October 2023 Data)**

October 2023 Duration of 147 Days vs. October 2022 Duration of 132 Days, an increase of 11.3%.

### **CLOSING RATIO (October 2023 Data)**

October 2023 Closing Ratio of 119.8% vs. October 2022 Closing Ratio of 101%, an increase of 18.6%.

C. Upcoming Legislative Session – BRIM does not have any bills or proposals for the 2024 Legislative Session. We do stand ready to be available, if requested, to be present for any hearings. We have had an inquiry from Senator Trump, Chair of Senate Judiciary for information related to my testimony earlier this year. We have provided the requested information and will respond promptly to future inquiries.

D. Broker RFP – BRIM released a broker RFP for services. The successful broker will approach the market on BRIM's behalf related to our liability and auto program and hopefully provide pricing for a true transfer product, fronting arrangement and/or another alternative program. This RFP will not affect the cyber, property or board of education programs.

E. Risk Management Information System Update –We have hit a roadblock with reports that had been created for our loss control department and feel that we need to focus attention on those and so the Underwriting rollout has been postponed.

F. BRIM met every deadline associated with its independent audit and submission of financial information to the Department's Finance Division. BRIM Finance Department is currently working on the ACFR (previously CAFR), Annual Comprehensive Financial Report and plans on submitting it next week. BRIM also received, for the 28<sup>th</sup> consecutive year, the GFOA (Government Finance Officers Association) award for excellence in reporting for fiscal year 2022.

G. Retirements/Changes – Long time employee, Robert Fisher will be retiring January 16, 2024, with 27 years of service. We are very sad to see him leave but it will not be for long. I am working to bring Robert back as a state temporary to assist with the legislative session and training of the all dreaded FOIA's. With this change, I would also like to announce a change in my senior leadership team. I have asked two folks, John Fernatt and Jeremy Wolfe to serve as Deputy Directors as well as their current managerial positions of Claim Manager for John and Loss Control Manager for Jeremy. Finally, to reduce office space, I plan to meet with the General Services Division about plans to bring the three privacy employees across the hall. With this, all of BRIM would occupy the same side of the building. We will retain the kitchen and back file room.

H. Upcoming Board Meeting schedule for 2024:

Tuesday, March 19, 2024 @ 1PM

Tuesday, June 25, 2024 @ 1PM

Tuesday, September 17, 2024 @ 1PM

Tuesday, December 17, 2024 @ 1PM

Sincerely,



Melody Duke  
Executive Director

MAD/ldm

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

Chief Financial Officer's Report  
December 12, 2023

**A. P-Card Report**

CD copies mailed to the board contain the supporting detail for P-card purchases for the months of July through October 2022. These totals are:

July	\$49,352.99
August	\$56,421.29
September	\$56,849.92
October	\$80,843.75

**B. Audit Update**

We completed our audit prior to the deadline of October 16<sup>th</sup> and submitted the financial statements and footnotes on October 12<sup>th</sup>. I would like to thank everyone at Brim that helped with the audit.

**C. Current Financial Results**

- The financial results presented are for the four months ending October 31st, 2023. The results reflect the actuarially estimated unpaid losses from AON's risk funding study as of September 30, 2023, plus an additional accrual for October.
- Net premium revenue through October has increased \$4.9 million compared to FY22. The increase reflects an increase in premiums based on the actuarial estimated loss pics.
- Retained case reserves are \$51.7 million higher this year compared to the prior year and actuarially estimated IBNR is \$17 million lower than the prior year. Combined total current and non-current claims liabilities (i.e., unpaid claims) are \$34.7 million higher than last year through October. Our reserve adjustment in the first quarter of this year was a reduction in reserves of \$7.7 million compared with an increase in reserves in the fourth quarter of FY23.
- Claims and claims adjustment expense of \$54.2 million is \$26.4 million dollars higher than last year due to higher claims payments during the current fiscal year.
- Investment losses through October were \$5.4 million compared to investment losses through October of 2022 of \$12.8 million. This is a positive year-over-year change of \$7.4 million. Through October the Bank of New York trust has lost \$2.8 million with losses occurring in September and October. Because of the relatively short duration of the fixed income holdings in the trust (3.6 years) and previously increasing interest rates the returns in the trust have been negative. Equity markets experienced volatility during FY23 and that trend is continuing in FY24. Our returns with the West Virginia Investment Management Board were negative through October of this year with losses of \$3 million. These negative returns were

partially offset by \$409,000 of interest earned with the West Virginia Board of Treasury Investments.

- The combination of higher reinsurance premiums, increased claims expense, negative investment returns and a small increase in premium revenue resulted in a decrease in net position of \$28.0 million compared with a decrease in net position of \$13.7 million in FY'23. The largest factor in this decrease was the increased claims and claims adjustment expenses. The overall impact is a year-over-year negative change of \$14.3 million.
- Our current net position of \$40.8 million includes the mine subsidence program's net position of 32.2 million, leaving BRIM's unrestricted net position at \$8.6 million. This compares with a net position of \$137.7 million last year and a net position at June 30, 2023 of \$68.8 million.

#### **D. Financial Markets**

The financial markets have continued to fluctuate since our last board meeting. The Dow Jones Industrial Average closed at 36,248 last Friday. The yields on US Treasury Notes have declined since the end of October. With the 10-year Note going from a high of almost 5% in October to a yield of just under 4.25% at the end of last week.

It appears that the Fed is on track to hold interest rates steady at their meeting this week. Their last increase was in July to a range of between 5.25% and 5.5%, a 22 year high. According to The Wall Street Journal, Fed officials aren't likely to consider when to cut rates at their meeting this week. The Fed is trying to balance between moving too slowly to reduce rates and hurting the economy and lowering rates prematurely and have inflation settle above their goal of 2% inflation. Core inflation, which excludes the food and energy categories, was down to 3.5% in October. On a three-month annualized basis, it was 2.4%.

Because of the uncertainty with interest rates, the volatility of the stock market and inflation concerns BRIM's investment returns outlook remains uncertain for FY24.

#### **E. Retirement and New Employee**

In October, Sue McMinn retired after 35 years of service with BRIM. We were sad to see Sue retire but she has earned a much-deserved rest. At the beginning of December Cathy Harless came to our department. Cathy has several years' experience with both the retirement board and DNR. We are happy to have Cathy in our department.

Respectfully submitted,

  
Stephen W. Panaro, CPA  
Chief Financial Officer

# West Virginia Board of Risk and Insurance Management

## Statements of Net Position

For the Four Months Ended October 31st

	2023	2022
	<i>(In Thousands)</i>	
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 15,843	\$ 11,784
Advance deposits with insurance company and trustee	246,175	242,004
Receivables	5,099	2,837
Prepaid insurance	8,777	5,629
Restricted cash and cash equivalents	6,168	14,772
Premiums due from other entities	1,534	1,222
Total current assets	283,597	278,247
Noncurrent assets:		
Equity position in internal investments pools	85,789	107,012
Restricted investments	29,074	63,441
Total noncurrent assets	114,863	170,453
Total assets	398,460	448,700
Deferred Outflows of Resources	399	434
Deferred Outflows of Resources - OPEB	59	61
<b>Liabilities</b>		
Current liabilities:		
Estimated unpaid claims and claims adjustment expense	155,023	103,306
Unearned premiums	22,066	17,602
Agent commissions payable	1,090	795
Claims Payable	00	100
Accrued expenses and other liabilities	9,432	1,903
Total current liabilities	187,611	123,705
Estimated unpaid claims and claims adjustment expense net of current portion	170,054	187,105
Compensated absences	192	167
Net pension liability	148	(894)
Total noncurrent liabilities	170,394	186,378
Total liabilities	358,005	310,084
Deferred Inflows of Resources	00	1,156
Deferred Inflows of Resources - OPEB	137	280
Net position:		
Restricted by State code for mine subsidence coverage	32,363	75,988
Unrestricted	36,438	75,415
Net Assets (Deficiency)	(28,025)	(13,728)
Net position	\$ 40,776	\$ 137,675

Unaudited

# West Virginia Board of Risk and Insurance Management

## Statements of Revenues, Expenses, and Changes in Net Position

For the Four Months Ended October 31st

	<b>2023</b>	<b>2022</b>
	<i>(In Thousands)</i>	
<b>Operating revenues</b>		
Premiums	\$ 38,448	\$ 32,142
Less coverage/reinsurance programs	(4,793)	(3,340)
Net operating revenues	33,655	28,802
<b>Operating expenses</b>		
Claims and claims adjustment expense	54,163	27,801
General and administrative	2,122	1,910
Total operating expenses	56,285	29,711
Operating income (loss)	(22,630)	(909)
<b>Nonoperating revenues</b>		
Investment income	(5,395)	(12,819)
Legislative Appropriation	0	0
OPEB Non Operating Income	0	0
Net nonoperating revenues	(5,395)	(12,819)
Changes in net position	(28,025)	(13,728)
Total net position, beginning of year	68,801	151,403
Total net position, end of period	<u>\$ 40,776</u>	<u>\$ 137,675</u>

*Unaudited*

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

**Loss Control Report to the Board  
December 2023**

BRIM and Liberty Mutual Insurance sponsored two boiler safety and operational seminars in October. Approximately 120 individuals participated in the seminars. The level of interest from our insured is returning to pre COVID-19 levels in terms of attendance.

In October, we sent out loss control questionnaires to our senate bill #3 insured. The completed questionnaires and supporting documentation are due to BRIM on January 1, 2023

During the months September, October and November, Tawney conducted 106 inspections and Liberty conducted 877. The reports are being processed according to established procedures.

Since my last report, our loss control technical staff reports the following activity:

**28 Loss Control Visits**

These are standard loss control visits which focus on all coverage areas and which result in information and/or loss control recommendations being provided.

**Insured Accounts Visited Include:** Jefferson County Board of Education, Ohio County Board of Education, Mercer County Board of Education, Fayette County Board of Education, Marshall County Board of Education, Monongalia County Board of Education, Logan County Board of Education, Wood County Board of Education, Harrison County Board of Education, Logan County Commission, Wetzel County Board of Education, Upshur County Board of Education, Jefferson County Fair Association, Brooke County Board of Education, Strong Through Our Plan, Jackson County Board of Education, Marion County Board of Education, Putnam County Board of Education, Housing Development Corporation, Fairmont State University, Boone County Board of Education, Kanawha County Board of Education, Roane-Jackson Technical Center, Catamount Children's Center, Hancock County Board of Education, Taylor County Board of Education, and McDowell County Board of Education.

**10 Standards of Participation Visits**

These are visits which are designed to provide assistance to our insured who are seeking to become compliant with the BRIM Standards of Participation program.

**Insured Accounts Visited Include:** West Virginia Public Service Commission, Barbour County Board of Education, West Liberty University, Doolin Run Fun, The Aracoma Story, Inc., Pocahontas County Senior Citizens, City of Ravenswood, Romney Public Housing Authority, West Virginia Can't Wait, and Cherry River Foundation.

Dated: December 7, 2023

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J. Wolfe", is written over a blue ink stamp that reads "Jeremy C. Wolfe".

Risk & Insurance Manager

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director

**Chief Privacy Officer's Report  
December 12, 2023**

**A. Management Team Meetings**

- On September 26, 2023, the Privacy Management Team met virtually with 76 attendees. The topics presented were an update on the new Cybersecurity Training, a presentation regarding Incident Management - Data Protection, an update on Retention Policies and Processes, a presentation on DHS - Crime and Privacy, an update on the Cyber Coverage changes for 2023-2024 and a template of a Non-Disclosure Statement that can be used members of the PMT.
- On December 5, 2023, the Privacy Management Team had its last meeting of the year with 69 people attending. The topics presented were the annual privacy law update, both federal and state, presented by Pullen, Fowler, Flanagan, Brown and Poe; a presentation of the HIPAA Security Rule by our cybersecurity intern Eric Sencindiver, and discussions regarding the plans for Data Privacy Week and the Privacy Retreat in June.
- The next Privacy Management Team is March 26, 2023.
- The State Privacy Office has begun planning for our next Privacy Retreat for 2024. We can confirm that the event will be June 10-12, 2024 and will be located at the Pipestem Resort State Park. Our tentative theme for the retreat is the *Importance of Partnerships in Protecting Data Privacy*, and speakers are being booked. The invitation to attend the Retreat is being opened to all privacy officer members of the Privacy Management Team.

**B. Privacy Training**

- There was a technical problem with the continued operation of the State Privacy Office's training on KnowBe4, which resulted in the training not being available for new state employees since July 1, 2023. The Privacy Office has worked with the Cybersecurity Office to rectify this problem and to enroll all missing new employees in this required training. The training is now available.
- During the Fourth Quarter of 2023, 185 members of the Executive Branch workforce completed the online course *WV Confidentiality Agreement*, which is required of all workforce members.
- An update to the Executive Branch Confidentiality Agreement was made with a change in format and frequency. It has been approved to require the Confidentiality Agreement to be signed by state employees every year. The agreement will be housed in the KnowBe4 training platform along with the other trainings that are regularly required.

- During the Fourth Quarter of 2023, the Executive Branch workforce completed 889 of the online courses *HIPAA/HITECH*, which is a general HIPAA training course and a new *HIPAA Refresher Training (2021)* which PEIA has requested.
- The Privacy Office has added a new HIPAA training course to the KnowBe4 platform available to all employees of covered state agencies.

The following training events were held by the SPO since the last board meeting:

- The State Privacy Office hosted the Privacy Management Team meeting on September 26, 2023.
- The CPO was part of a panel discussion at the West Virginia Digital Summit on October 17, 2023. The panel was entitled *Unleashing the Power of Data: Overcoming Access Challenges*.
- The State Privacy Office hosted a Privacy Management Team meeting on December 5, 2023.

#### **C. Privacy Impact Assessments/ Privacy Incident Response Assessments**

- A privacy impact assessment (PIA) is a tool used to assess the privacy impact and risks to the personally identifiable information (PII) stored, used, and exchanged by information systems. A PIA evaluates privacy implications when information systems are created, when existing systems are significantly modified, or new technology is purchased.
- Since September 30, 2023, 14 PIAs have been completed and submitted.

#### **D. State Privacy Office Projects**

- The State Privacy Office is preparing for our annual celebration of Data Privacy Day (January 28th). In the past we have celebrated the day with a single training event for the Privacy Management Team, but within the last year, we have decided to broaden the scope of this celebration. Instead of celebrating a single day only with members of the Privacy Management Team, the Privacy Office is planning for Data Privacy Week (January 22-26) and to prepare trainings and resources made available to all state employees of the Executive Branch.

Very truly yours,

**Ashley Summitt**

Ashley Summitt, JD  
Chief Privacy Officer  
WV Executive Branch

**STATE OF WEST VIRGINIA**  
**DEPARTMENT OF ADMINISTRATION**  
**BOARD OF RISK AND INSURANCE MANAGEMENT**

Mark D. Scott  
Cabinet Secretary



Melody Duke  
Executive Director  
[Melody.A.Duke@wv.gov](mailto:Melody.A.Duke@wv.gov)

**AGENDA**  
**BOARD MEETING OF THE**  
**WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT**  
**Tuesday, March 19, 2024 @ 1PM**

Chairman Price

Call to Order

Chairman Price

Roll Call

Chairman Price

Approval of Board Minutes  
December 12, 2023

**REPORTS**

Terry C. Pfeifer, Senior Consultant  
Aon

Risk Funding Study  
As of 6/30/2023

Melody Duke  
Executive Director

Executive Director Report

Stephen W. Panaro, CPA  
Chief Financial Officer

Financial Report  
PCard Report

Jeremy C. Wolfe  
Loss Control Manager

Loss Control Report

Ashley E. Summit  
Chief Privacy Officer

Privacy Report

**UNFINISHED BUSINESS**

**NEW BUSINESS**

**ADJOURNMENT**

Idm



**STATE OF WEST VIRGINIA**  
**DEPARTMENT OF ADMINISTRATION**  
**BOARD OF RISK AND INSURANCE MANAGEMENT**

Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

**\*\*DRAFT\*\***

**MINUTES OF THE MEETING**  
**WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT**  
**December 12, 2023 @ 1PM**

(Meeting held in person & telephonically to practice social distancing guidelines for COVID-19 pandemic response)

**BOARD MEMBERS:** Joseph Price, Chairman  
Gordon Lane, Jr., Vice Chairman  
Kristin Boggs, Member  
Tom Clark, Member  
Allan L. McVey, Board Secretary, Ex-Officio Member  
Commissioner, WV Office of the Insurance Commissioner

**BRIM PERSONNEL:** Robert Fisher, Deputy Director  
Stephen W. Panaro, CPA, CFO  
Jeremy Wolfe, Risk & Insurance Manager  
Ashley Summit, Chief Privacy Officer  
Woodrow White, Underwriting Manager  
John L. Fernatt, Deputy Claims Manager  
Emily Fleck, Controller  
Valerie C. Poindexter, Claim Representative  
Jason Stover, Office Assistant  
Lora Myers, Recording Secretary

**BRIM PROGRAM REPRESENTATIVES:** Steve Fowler, BRIM Counsel  
Chuck Waugh, AIG Claim Services  
Dan Rittenhouse, AIG Claim Services  
Brenda Samples, USI Insurance Services. LLC  
Bob Ayers, USI Insurance Services. LLC

**GUESTS:** Mark D. Scott, Secretary, Department of Administration  
Norman Mosrie, FORVIS, LLP  
Donna Hadrych, WVU Health Sciences  
Elizabeth Schindzielorz, Counsel, WV Senate Committee  
on the Judiciary

## **CALL TO ORDER**

- Chairman Price called the board meeting of the West Virginia Board of Risk and Insurance Management to order on Tuesday, December 12, 2023 at 1:03PM. The meeting was held in person and by remote access.
- Chairman Price requested all board members and meeting attendees sign in to verify their attendance and remote participants should verify with confirmation email to Lora Myers at [Lora.D.Myers@wv.gov](mailto:Lora.D.Myers@wv.gov).

## **APPROVAL OF MINUTES**

- A motion to approve the Minutes of the September 19, 2023, board meeting minutes was requested. Chairman Price moved the approval of the board meeting minutes from the prior meeting. The motion was seconded by Vice Chairman Lane.
- No discussion, a vote took place and the MOTION ADOPTED.

## **REPORTS**

### **FORVIS, LLP**

- Norman Mosrie, Partner, with FORVIS, LLP was welcomed to present the Audited Financial Report - June 30, 2023. Mr. Mosrie thanked the board for the opportunity to present.
- Mr. Mosrie reviewed the Report to the Board of Directors - Results of the 2023 Financial Statement Audit, Including Required Communications. Copies of the report were distributed electronically prior to the meeting as well as handouts distributed to those attending in person.
- Many topics were reviewed by Mr. Mosrie which included Significant Accounting Policies; Unusual Policies or Methods; Management Judgments and Accounting Estimates; and Financial Statement Disclosures. During the course of the audit, no reportable matters were observed.
- Attachment A - Audited Financial Statements were reviewed. The Independent Auditor's Report was also presented. Attachment B - Management Representation Letter was thoroughly reviewed. No reportable items were found which is good. A spike in abuse claims was the primary driver of the increase. Mr. Mosrie discussed his long history with BRIM and stated that the increase was no fault of management.
- Mr. Panaro thanked Mr. Mosrie and his FORVIS staff for all their help and guidance during the audit. Mr. Panaro also recognized Emily Fleck, BRIM Controller, for keeping all information updated and current.

- Mr. Mosrie wished the board a happy holiday season and then asked for any questions, no questions. FORVIS LLP Audited Financial Report - June 30, 2023. was received, a copy is attached and made part of the record.

### **Executive Director's Report**

- Melody Duke was not present for the meeting. In her absence, Deputy Director Robert Fisher presented the Executive Director's Report. Mr. Fisher began the Executive Director's Report with a review of the Marshall University and West Virginia University Medical Malpractice Programs. The report included total deposits/disbursements to the escrow accounts for FY2024 thus far.
- Mr. Fisher reported on the State and Non State Liability Claim and Litigation Information. The charts provided were reviewed and explained including indemnity payments, legal payments and indemnity reserves.
- Eight cases have been tried to verdict in 2023, four plaintiff verdicts and three defense verdicts, and a dismissed case. The Executive Director's Report also included details regarding trials, paid claims, outstanding claims, claims counts, duration and closing ratio.
- During the upcoming Legislative Session, BRIM does not have any bills or proposals for the 2024 Legislative Session starting January 9, 2024. BRIM is available and ready, if requested, to be present for any hearings. We have had an inquiry from Senator Trump, Chair of Senate Judiciary, for information related to testimony earlier this year. Requested information has been provided and we will promptly respond to any future inquiries.
- Mr. Fisher reported on BRIM releasing a broker RFP for services. The successful broker will approach the market on BRIM's behalf related to our liability and auto program and hopefully provide pricing for a true transfer product, fronting arrangement and/or another alternative program. This RFP will not affect the cyber, property or board of education programs. Bids for this RFP are due January 5, 2024.
- An update on the Risk Management Information System was reported on during the Executive Director's Report. The claim component is fully operational; however, we have a roadblock with reports that had been created for the loss control department. We are holding back on the Underwriting rollout in order to focus more on the loss control issues.
- Mr. Fisher stated that BRIM met every deadline associated with its independent audit and submission of financial information to the Department's Finance Division. Our Finance Department is working on the ACFR, Annual Comprehensive Financial Report and plans to submit it the following week. Also, for the 28th consecutive year, BRIM received the GFOA (Government Finance Officers Association) award for excellence in reporting for fiscal year 2022.
- Mr. Fisher informed the board of his upcoming retirement on January 16, 2024 with 27 years of service. Mrs. Duke included in her report that Robert will be

missed at BRIM but has been working to bring Robert back in as a temporary employee. Mr. Fisher also announced that with his retirement brings change in senior leadership. Mrs. Duke has asked John Fernatt and Jeremy Wolfe to serve as Deputy Directors as well as continue with their current managerial positions.

- Mr. Fisher took a moment to personally thank the board for the opportunity to work with everyone and offered his help in any way possible. Chairman Price thanked Robert for his service and assured him he would be missed.
- In an effort to reduce office space, plans are underway to meet with the General Services Division regarding moving the three privacy employees across the hall. With this move, all BRIM staff would occupy the same side of the building and BRIM will retain the kitchen and back file room.
- Upcoming Board Meeting Schedule for 2024:
  - Tuesday, March 19, 2024 @ 1PM
  - Tuesday, June 25, 2024 @ 1PM
  - Tuesday, September 17, 2024 @ 1PM
  - Tuesday, December 17, 2024 @ 1PM
- The Executive Director's Report was received and filed, a copy is attached and made part of the record.

### **BRIM Financial Report**

- Chairman Price called on Stephen Panaro to present the Chief Financial Officer's Report to the Board.
- Mr. Panaro reviewed the P-Card Report for July - October, 2023.
- The Financial Report included an update on the audit. The audit was completed prior to the October 16th deadline and was submitted October 12th. Mr. Panaro thanked everyone at BRIM who helped with the audit.
- Mr. Panaro reported on the Current Financial Results. The financial results presented are for the four months ended October 31, 2023. The results reflect the actuarially estimated unpaid losses from AON's risk funding study as of September 30, 2023, plus an additional accrual for October.
- Net premium revenue through October has increased \$4.9 million compared to FY22. The increase reflects an increase in premiums based on the actuarial estimated loss pics.
- Retained case reserves are \$51.7 million higher this year compared to the prior year and actuarially estimated IBNR is \$17 million lower than the prior year. Combined total current and non-current claims liabilities (i.e., unpaid claims) are \$34.7 million higher than last year through October. Our reserve adjustment in

the first quarter was a reduction in reserves of \$7.7 million compared with an increase in reserves in the fourth quarter of FY23.

- Claims and claims adjustment expense of \$54.2 million is \$26.4 million dollars higher than last year due to higher claims payments during the current fiscal year.
- Investment losses through October were \$5.4 million compared to investment losses through October 2022 of \$12.8 million. This is a positive year-over-year change of \$7.4 million. Through October the Bank of New York trust has lost \$2.8 million with losses occurring in September and October. Because of the relatively short duration of the fixed income holdings in the trust (3.6 years) and previously increasing interest rates the returns in the trust have been negative. Equity markets experienced volatility during FY23 and continued in FY24. Returns with the West Virginia Investment Management Board were negative through October with losses of \$3 million. These negative returns were partially offset by \$409,000 of interest earned with the West Virginia Board of Treasury Investments.
- The combination of higher reinsurance premiums, increased claims expense, negative investment returns and a small increase in premium revenue resulted in a decrease in net position of \$28 million compared with a decrease in net position of \$13.7 million in FY23. The largest factor in this decrease was the increased claims and claims adjustment expenses. The overall impact is a year-over-year negative change of \$14.3 million.
- Our current net position of \$40.8 million includes the mine subsidence program's net position of \$32.2 million, leaving BRIM's unrestricted net position at \$8.6 million. This compares to a net position of \$137.7 million last year and a net position at June 30, 2023 of \$68.8 million.
- Mr. Panaro reviewed the Financial Markets which have continued to fluctuate since our last board meeting. The yields on US Treasury Notes have declined since the end of October. With the 10-year Note going from a high of almost 5% in October to a yield of just under 4.25% at the end of the last week.
- The Fed appears to be on track to hold interest rates steady at their meeting this week. Their last increase was in July to a range of between 5.25% and 5.5%, a 22 year high. According to the Wall Street Journal, Fed officials aren't likely to consider when to cut rates at their meeting this week. The Fed is trying to balance between moving too slowly to reduce rates and hurting the economy and lowering rates prematurely and have inflation settle above their goal of 2% inflation. Core inflation, which excludes the food and energy categories, was down to 3.5% in October.
- Mr. Panaro reported on employee changes in the Finance Department. In October, Sue McMinn retired after 35 years of service with BRIM. We were sad to see Sue retire but wish her much happiness. Cathy Harless came to our department in early December. Cathy has several years experience with both the retirement board and DNR. We welcome Cathy to our department.

- Mr. Panaro asked for questions, no questions. The Chief Financial Officer's Report was received and filed, a copy is attached and made part of the record.

### **Loss Control Report**

- Chairman Price called on Jeremy Wolfe to present the Loss Control Report
- Mr. Wolfe reported that BRIM and Liberty Mutual Insurance sponsored two boiler safety and operational seminars in October. Approximately 120 individuals participated in the seminars. The level of interest from our insured is increasing as in pre COVID-19 levels regarding attendance.
- Mr. Wolfe reported that during September, October and November 2023, Tawney conducted 106 inspections and Liberty Mutual Insurance conducted 877. These reports are being processed.
- Mr. Wolfe included in his report that our loss control technical staff reports the following activity:
  - 28 Loss Control Visits - these are standard visits which focus on all average areas and which result in information and/or loss control recommendations being provided.
  - 10 Standards of Participation Visits - these are visits which are designed to provide assistance to our insured Participation program.
- Mr. Wolfe asked if there were any questions, no questions. The Loss Control Report was received and filed, a copy is attached and made part of the record.

### **Privacy Report**

- Chairman Price called on Ashley Summitt to present the Privacy Report
- Ms. Summitt reported on Management Team Meetings. On September 26, 2023, the Privacy Management Team met virtually with 76 attendees. Topics presented were an update on the new Cybersecurity Training, a presentation regarding Incident Management - Data Protection, an update on Retention Policies and Processes, a presentation on DHS - Crime and Privacy, an update on Cyber Coverage changes for 2023-2024 and a template of a Non-Disclosure Statement that can be used by members of the PMT.
- On December 5, 2023, the Privacy Management Team had its last meeting of the year with 69 people attending. The topics presented were the annual privacy law update, both federal and state, presented by Pullen, Fowler, Flanagan, Brown and Poe; a presentation of the HIPAA Security Rule by our cybersecurity intern Eric Sencindiver, and discussions regarding plans for Data Privacy Week and the Privacy Retreat in June.
- The next Privacy Management Team meeting is March 26, 2024.

- Ms. Summitt reported that the State Privacy Office is planning our next Privacy Retreat for 2024. The event will be June 10 - 12, 2024 and will be located at Pipestem Resort State Park. Tentatively the theme for the retreat is the Importance of Partnerships in Protecting Data Privacy, speakers are being booked and invitation for attending the retreat is being opened to all privacy officer members of the Data Management Team.
- The Chief Privacy Officer reported on Privacy Trainings. There was a technical issue with the continued operation of the State Privacy Office's training on KnowBe4, this resulted in the training being unavailable for new employees since July 1, 2023. The Privacy Office has worked with the Cybersecurity Office to rectify this problem and to enroll all missing new employees in this training which is now available.
- During the Fourth Quarter of 2023, 185 members of the Executive Branch workforce completed the online course *WV Confidentiality Agreement*, which is required of all workforce members.
- An update to the Executive Branch Confidentiality Agreement was made with a change in format and frequency. It has been approved to require the Confidentiality Agreement to be signed by state employees every year. The agreement will be housed in the KnowBe4 training platform along with other trainings that are regularly required.
- During the Fourth Quarter of 2023, the Executive Branch workforce completed 889 of the online course *HIPAA/HITECH*, a general training course and new *HIPAA Refresher Training (2021)* which was requested by PEIA.
- The Privacy Office has added a new HIPAA training course to the KnowBe4 platform and is available to all employees of covered state agencies.
- Ms. Summitt reported on the following training events held by the SPO since the last board meeting:

The State Privacy Office hosted the Privacy Management Team meeting on September 26, 2023.

The CPO was part of a panel discussion at the West Virginia Digital Summit on October 17, 2023. The panel was entitled *Unleashing the Power of Data: Overcoming Access Challenges*.

The State Privacy Office hosted the Privacy Management Team meeting on December 5, 2023.

- Ms. Summitt's report also included information on Privacy Impact Assessments/Privacy Incident Response Assessments. A Privacy Impact Assessment (PIA) is a tool used to assess the privacy impact and risks to the personally identifiable information (PII) stored, used and exchanged by information systems. A PIA evaluates privacy implications when information

systems are created, when existing systems are significantly modified or new technology is purchased.

- Since June 30, 2023, 14 PIAs have been completed and submitted.
- Ms. Summitt reported on State Privacy Office Projects. The State Privacy Office is preparing for our annual celebration of Data Privacy Day on January 28th. In the past we have celebrated the day with a single training event for the Privacy Management Team, but within the last year, we have decided to broaden the scope of this celebration. Instead of celebrating a single day only with members of the Privacy Management Team, the Privacy Office is planning for Data Privacy Week, January 22nd - 26th, and to prepare trainings and resources made available to all state employees of the Executive Branch.
- Ms. Summitt asked for any questions, no questions. Privacy Report was received and filed, a copy is attached and made part of the record.

### **UNFINISHED BUSINESS**

### **NEW BUSINESS**

### **ADJOURNMENT**

- Chairman Price asked for a motion to adjourn the BRIM board meeting. Member Tom Clark moved the meeting adjournment. The motion was seconded by Vice Chairman Lane.
- No discussion, a vote took place and the MOTION ADOPTED. The meeting adjourned.

\_\_\_\_\_  
Board Chairman

\_\_\_\_\_  
Date

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

**Executive Director's Report**  
**March 19, 2024**

**2024 Legislative Session**

**SB685/HB5593** - Continuing and updating Board of Risk and Insurance Management/ Relating to the creation, composition, qualifications, and compensation of the State Board of Risk and Insurance Management – The bill changes the qualifications to 10 years of insurance industry experience. This bill passed in the House on 2/23/2024 and passed in the Senate 2/28/2024 with a title amendment but the House did not concur on the title amendment before the session ended on 3/9/2024.

**SB686/HB5643** - Prohibiting actions for damages or attorney's fees in cases involving Board of Risk and Insurance Management/Relating to actions for damages or attorney's fees in cases involving Board of Risk Management and Insurance - This provides that no action for damages or attorney's fees under *Shamblin v. Nationwide Mut. Ins. Co.*, 183 W. Va. 585 (1990) shall be awardable or cognizable against the board or any person employed by the board or any entity with which the board has contracted to administer the board's programs. The amendments to this section enacted by the Legislature during the 2024 Regular Session apply retrospectively to all pending claims and actions. This bill passed in the Senate on 2/27/2024 and was assigned to House Finance on 2/29/2024 but did not leave the committee before the session ended.

**SB795/HB5688** - Limiting liability for accredited academic hospitals/Relating to accredited academic hospitals - This would create the ability for nonprofit accredited academic hospitals to seek professional liability coverage with BRIM. I am not sure that the intent is for all eligible hospitals to seek BRIM coverage or maybe just one but the way the bill is currently written is not clear and does need input from BRIM. Neither SB nor HB made it out of committee.

**SB839** - Providing County boards of education options for obtaining liability insurance coverage.  
- This would allow BOE's to obtain liability insurance in the marketplace for coverage at the \$1.25M underlying and \$5M excess requirement. This bill did not make it out of committee.

**SB875** - The bill places a moratorium until July 1, 2025, on providing new or additional property or liability coverage to certain entities to which coverage is permissive and not mandatory. The prohibited entities include political subdivisions, charitable or public service organizations, and emergency medical services. The language exempts county boards of education, public charter schools, and certain other persons and entities from the moratorium. It authorizes BRIM to non-renew insurance coverage to any entity for which such coverage is permissive under state code.

The Bill creates two new sections §29-12-15 and §29-12-16 relating to liability or other insurance coverage provided by the BRIM. First, §29-12-15 places a moratorium on providing new coverage until July 1, 2025. Second, §29-12-16 relates to the non-renewal of policies for permissive non-governmental entities.

Insurance agents and industry representatives have contacted BRIM and OIC to express concerns about the inability to obtain coverage elsewhere and the lack of available options. OIC received concerns specifically from the Economic Development Authority and insurers of EMS and ambulance companies. **This bill passed the House and Senate and is waiting on the Governor's signature.**

**SB583** - The Bill creates a new section, §55-7-32, relating to employer liability and damages in civil actions based upon negligence in the operation of commercial motor vehicles.

It defines "Commercial motor vehicle" to include a truck tractor, road tractor, trailer, semitrailer. Additionally, the definition does not include a vehicle serving as a common carrier of passengers, a commercial motor vehicle, a school bus, or other vehicle that is primarily engaged in transporting passengers.

The final version established a monetary cap of \$5 million per injured or killed person. Some state agencies own vehicles that would qualify as a commercial motor vehicle. Currently constitutional immunity applies to any award against the state for more than \$1M. If constitutional immunity is challenged in court and a judge determines the new \$5M cap applies to non-economic damages, it exceeds the current limits of \$1M. The code is confusing and unclear. It states the cap for compensatory damages for noneconomic loss is \$5M per occurrence. However, it goes on to state that the limitation only applies if the defendant does not have commercial insurance of at least \$3M per occurrence.

The section creates a new exposure. BRIM is unsure how many of the currently insured "heavy vehicles" would qualify as a commercial motor vehicle. BRIM would have to create a new exposure classification and provide an inventory survey for each insured. It will be nearly impossible to complete by July 1, 2024. **This bill passed the House and Senate and is waiting on the Governor's signature.**

**Broker RFP** – BRIM released a broker RFP for services. BRIM awarded the contract to USI and a planning meeting is scheduled March 28, 2024. USI will approach the market on BRIM's behalf related to our liability and auto program and hopefully provide pricing for a true transfer product, fronting arrangement and/or another alternative program.

**Employee Changes** – BRIM welcomes Catherine Harless in the Finance Department and congratulates Shelley Brightwell on her promotion from Insurance Claims Representative 2 to Insurance Claims Representative Supervisor.

**Branding** – BRIM will be starting the process of branding our agency through a logo and other publications/awareness to aid in communication with the legislature and the public. We are excited about this process and opportunity to provide relevant information about BRIM.

**Upcoming Board Meeting schedule for 2024:**

Tuesday, June 25, 2024 @ 1PM

Tuesday, September 17, 2024 @ 1PM

Tuesday, December 17, 2024 @ 1PM

Sincerely,



Melody Duke  
Executive Director

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

Chief Financial Officer's Report  
March 19, 2024

**A. P-Card Report**

CD copies mailed to the board contain the supporting detail for P-card purchases for the months of November through January. These totals are:

November	\$78,983.08
December	\$80,827.72
January	\$48,414.71

**B. Current Financial Results**

- The financial results presented are for the seven months ending January 31st, 2024. The results reflect the actuarially estimated unpaid losses from AON's risk funding study as of December 31, 2023, plus an additional accrual for January.
- Net premium revenue through January has increased \$9.4 million compared to FY23. The increase reflects an increase in premiums based on the actuarial estimated loss pics.
- Retained case reserves are \$32.3 million lower this year compared to the prior year and actuarially estimated IBNR is \$36.6 million lower than the prior year. Combined total current and non-current claims liabilities (i.e., unpaid claims) are \$68.9 million lower than last year through January. Our reserve adjustment in the second quarter of this year was a reduction in reserves due to claims previously part of our reserves being settled compared with an increase in reserves in the second quarter of FY23.
- Claims and claims adjustment expense of \$60.4 million is \$44.5 million dollars lower than last year due to lower claims payments during the current fiscal year.
- Investment income through January was \$12.4 million compared to investment income through January of 2023 of \$5.6 million. This is a positive year-over-year change of \$6.8 million. Through January the Bank of New York trust earned \$8.6 million. Equity markets experienced volatility during FY23 and that trend continues in FY24. Our returns with the West Virginia Investment Management Board were positive through January with income of \$3.2 million. We also earned \$662,000 from our accounts with the West Virginia Board of Treasury Investments.
- The combination of higher reinsurance premiums, lower claims expense, positive investment returns and a small increase in premium revenue resulted in an increase in net position of \$8.1 million compared with a decrease in net position of \$52.2 million in FY23. The largest factor in this increase was the decreased claims and claims adjustment expenses. The overall impact is a year-over-year positive change of \$60.3 million.

- Our current net position of \$76.9 million includes the mine subsidence program's net position of 35.7 million, leaving BRIM's unrestricted net position at \$41.2 million. This compares with a net position of \$99.2 million last year and a net position at June 30, 2023 of \$68.8 million.

### C. Financial Markets

The financial markets have continued to fluctuate since our last board meeting. The Dow Jones Industrial Average has been fluctuating between 38,000 and 39,000 at the beginning of March. The yields on US Treasury Notes have declined since the beginning of March. With the 10-year Note currently yielding just over 4%.

In testimony before Congress on March 6<sup>th</sup>, Fed Chairman Powell stated that "We believe that our policy rate is likely at its peak for this tightening cycle." He also stated that "If the economy evolves broadly as expected, it will be appropriate to begin dialing back policy restraint at some point this year." Core inflation, which excludes the food and energy categories was 2.8% in January. Core inflation was 3.6% in September.

Because of the uncertainty with interest rates, the volatility of the stock market and inflation concerns BRIM's investment returns outlook remains uncertain for FY24.

Respectfully submitted,

  
Stephen W. Panaro, CPA  
Chief Financial Officer

West Virginia Board of Risk and Insurance Management

Statements of Net Position

For the Seven Months Ended January 31st

	2024	2023
	<i>(In Thousands)</i>	
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 17,770	\$ 14,770
Advance deposits with insurance company and trustee	256,615	254,387
Receivables	28,333	2,735
Prepaid insurance	6,328	3,316
Restricted cash and cash equivalents	7,396	16,023
Premiums due from other entities	1,534	1,222
Total current assets	317,976	292,454
Noncurrent assets:		
Equity position in internal investments pools	55,898	113,570
Restricted investments	31,287	67,329
Total noncurrent assets	87,185	180,899
Total assets	405,161	473,353
Deferred Outflows of Resources	399	434
Deferred Outflows of Resources - OPEB	59	61
<b>Liabilities</b>		
Current liabilities:		
Estimated unpaid claims and claims adjustment expense	189,423	103,306
Unearned premiums	21,692	17,700
Agent commissions payable	997	820
Claims Payable	0	0
Accrued expenses and other liabilities	21,737	2,624
Total current liabilities	233,650	124,451
Estimated unpaid claims and claims adjustment expense net of current portion	94,369	249,468
Compensated absences	192	167
Net pension liability	148	(894)
Total noncurrent liabilities	94,709	248,741
Total liabilities	328,559	373,192
Deferred Inflows of Resources	0	1,156
Deferred Inflows of Resources - OPEB	137	280
Net position:		
Restricted by State code for mine subsidence coverage	32,363	75,988
Unrestricted	36,436	75,415
Net Assets (Deficiency)	8,124	(52,183)
Net position	\$ 76,923	\$ 99,220

Unaudited

# West Virginia Board of Risk and Insurance Management

## Statements of Revenues, Expenses, and Changes in Net Position

For the Seven Months Ended January 31st

	2024	2023
	<i>(In Thousands)</i>	
<b>Operating revenues</b>		
Premiums	\$ 68,072	\$ 55,823
Less coverage/reinsurance programs	(8,494)	(5,653)
Net operating revenues	59,578	50,169
<b>Operating expenses</b>		
Claims and claims adjustment expense	60,362	104,878
General and administrative	3,535	3,071
Total operating expenses	63,897	107,949
Operating income (loss)	(4,319)	(57,780)
<b>Nonoperating revenues</b>		
Investment income	12,443	5,597
Legislative Appropriation	0	0
OPEB Non Operating Income	0	0
Net nonoperating revenues	12,443	5,597
Changes in net position	8,124	(52,183)
Total net position, beginning of year	68,799	151,403
Total net position, end of period	\$ 76,923	\$ 99,220

*Unaudited*

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
[Melody.A.Duke@wv.gov](mailto:Melody.A.Duke@wv.gov)

**Loss Control Report to the Board  
March 2024**

Non-state agency loss control questionnaires were due on January 1, 2023. Since that time, we have been evaluating those questionnaires to apply credits or surcharges based on insured participation in our Standards of Participation program. We hope to complete the evaluation process during the month of March. To date, we have completed 807 evaluations.

This spring, we will concentrate our loss control consultation services toward insured entities who operate treatment facilities and/or shelters, focusing on the exposures of physical and sexual abuse. Abuse risk management assessments will be conducted and loss prevention recommendations will be issued based upon assessment results. We hope these efforts will assist the insured in identifying the primary areas in which claims could occur and provide an opportunity for us to give advice as to developing specific strategies and methods to enable the insured to control and/or avoid preventable claims.

We are continuing our partnership with the West Virginia Public Service Commission by contributing risk management news articles for inclusion in their quarterly newsletter, "The Pipeline". This newsletter is distributed to public utility organizations and public service districts throughout the state.

For the year 2023, the Department completed 134 consultation visits which was the largest total since 2011. We are pleased with the specialists' efforts, as these visits remain the keystone of our risk management efforts.

During the months of December, January and February, Tawney conducted 225 inspections and Liberty Mutual Insurance conducted 796. The reports are being processed according to established procedures.

As is the case each year, the number of loss control visits is markedly reduced during the period in which we evaluate loss control questionnaire submissions, no consultation visits have occurred during this reporting period.

Dated: March 11, 2024

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J.C. Wolfe".

Jeremy C. Wolfe  
Risk & Insurance Manager

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director

## Chief Privacy Officer's Report March 19, 2024

### A. Management Team Meetings

- On March 26, 2024, the Privacy Management Team will have its next meeting to be held virtually. The agenda includes a Cybersecurity Update, Basic Processes for a Virtual Private Network, an explanation of the Office of Technology's Litigation Hold Access process, an incident checklist overview, and discussions about Data Privacy Week and the upcoming Privacy Retreat.
- The State Privacy Office is planning for our next Privacy Retreat. The two and half day event will be June 10-12, 2024 and will be located at the Pipestem Resort State Park. Our theme for the retreat is the *Importance of Partnerships in Protecting Data Privacy*, and speakers are being confirmed.

### B. Privacy Training

- During the First Quarter of 2024, 352 members of the Executive Branch workforce completed the online course *WV Confidentiality Agreement*, which is required of all workforce members.
- During the First Quarter of 2024, the Executive Branch workforce completed 107 of the online courses *HIPAA/HITECH*, which is a general HIPAA training course and a new *HIPAA Refresher Training (2021)* which PEIA has requested.
- During the First Quarter of 2024, 2975 members of the Executive Branch workforce completed the online course for Cybersecurity, which is required for all workforce members.
- As a result of participation in Data Privacy Week, 16,873 members of the Executive Branch workforce completed the additional privacy training that was offered during that week.

The following training events were held by the SPO since the last board meeting:

- During Data Privacy Week (January 22-27, 2024), the State Privacy Office disseminated, through members of the Privacy Management Team, emails to all state employees of the Executive Branch different topics of data privacy each day of the week. These emails contained substantive articles and videos, plus activities and puzzles. Small privacy prizes were given to the first ten people to successfully complete the puzzles.

### **C. Privacy Impact Assessments/ Privacy Incident Response Assessments**

- A privacy impact assessment (PIA) is a tool used to assess the privacy impact and risks to the personally identifiable information (PII) stored, used, and exchanged by information systems. A PIA evaluates privacy implications when information systems are created, when existing systems are significantly modified, or new technology is purchased.
- Since January 1, 2024, 13 PIAs have been completed and submitted.

### **D. State Privacy Office Projects**

- The State Privacy Office has been meeting with the Departmental Privacy Officer for the WV Department of Health and Human Resources (WV DHHR) regularly to formulate a plan to provide technical support to DHHR with a needed HIPAA Hybrid analysis for each of the three new Cabinet-level departments that were formed out of the previous structure of the WV DHHR. This project will hopefully be completed by the end of this year.

Very truly yours,

**Ashley Summitt**

Ashley Summitt, JD  
Chief Privacy Officer  
WV Executive Branch

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
[Melody.A.Duke@wv.gov](mailto:Melody.A.Duke@wv.gov)

**AGENDA**  
**BOARD MEETING OF THE**  
**WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT**  
**Tuesday, June 25, 2024 @ 1PM**

Chairman Price

Call to Order

Chairman Price

Roll Call

Chairman Price

Approval of Board Minutes  
March 19, 2024

**REPORTS**

Melody Duke  
Executive Director

Executive Director Report

Stephen W. Panaro, CPA  
Chief Financial Officer

Financial Report  
PCard Report

Jeremy C. Wolfe  
Deputy Director/Loss Control Manager

Loss Control Report

Ashley E. Summit  
Chief Privacy Officer

Privacy Report

**UNFINISHED BUSINESS**

**NEW BUSINESS**

**ADJOURNMENT**

Idm



# STATE OF WEST VIRGINIA

## DEPARTMENT OF ADMINISTRATION

### BOARD OF RISK AND INSURANCE MANAGEMENT

Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

**\*\*DRAFT\*\***

### **MINUTES OF THE MEETING**

### **WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT**

### **March 19, 2024 @ 1PM**

(Meeting held in person & telephonically)

**BOARD MEMBERS:** Gordon Lane, Jr., Vice Chairman  
Leah Cooper, Member  
Kristin Boggs, Member  
Allan L. McVey, Board Secretary, Ex-Officio Member  
Commissioner, WV Office of the Insurance Commissioner

**BRIM PERSONNEL:** Melody Duke, Executive Director  
John L. Fernatt, Deputy Director/Claims Manager  
Jeremy Wolfe, Deputy Director/Risk & Insurance Manager  
Stephen W. Panaro, CPA, CFO  
Ashley Summit, Chief Privacy Officer  
Woodrow White, Underwriting Manager  
Emily Fleck, Controller  
Valerie Poindexter, Claim Representative  
Jason Stover, Office Assistant  
Lora Myers, Recording Secretary

**BRIM PROGRAM REPRESENTATIVES:** Steve Fowler, BRIM Counsel  
Chuck Waugh, AIG Claim Services  
Brenda Samples, USI Insurance Services. LLC  
Bob Ayers, USI Insurance Services. LLC  
Dave Stacy, USI Insurance Services, LLC  
Janet Buckley, Assured Partners

**GUESTS:** Mark D. Scott, Secretary, Department of Administration  
Terry C. Pfeifer, Senior Consultant, Aon  
Kelsey Knotts, WVU Risk Management  
Donna Hadrych, WVU Health Sciences  
Stacie Honaker, WVU Health Sciences  
Suzette Raines Ashley, Ashley Insurance  
Danielle Ellis, Ellis Insurance

**GUESTS**  
**CONTINUED:**

Mary Howard, Pollen8  
Hollie McGraw, Pollen8  
David Radar  
John Gianola  
Robert Fisher  
Jordan Bice  
(2 guests joined remotely and were not identified)

**CALL TO ORDER**

- Vice-Chairman Lane called the board meeting of the West Virginia Board of Risk and Insurance Management to order on Tuesday, March 19, 2024 at 1:03PM. The meeting was held in person as well as by remote access.
- Vice-Chairman Lane requested all board members and meeting attendees sign in to verify their attendance. Remote participants should verify with confirmation email to Lora Myers at Lora.D.Myers@wv.gov.

**APPROVAL OF MINUTES**

- A motion to approve the Minutes of the December 12, 2023, board meeting minutes was requested. Member Kristin Boggs moved the approval of the board meeting minutes from the prior meeting. The motion was seconded by Member Leah Cooper.
- No discussion, a vote took place and the MOTION ADOPTED.

**REPORTS**

**Aon**

- Terry C. Pfeifer, Senior Consultant with Aon was welcomed to present the Risk Funding Study - June 30, 2023. Mr. Pfeifer joined remotely and thanked the board for the opportunity to present.
- Mr. Pfeifer made reference to the handout of the Risk Funding Study the board received in their packet. He reviewed the Retained Unpaid Loss Estimates - Goal/Scope, Definitions, Examples and Results which includes information on the programs and coverages outlined in the report. Mr. Pfeifer reported estimated unpaid loss increased \$80.6 million (28.5%) from 6/30/2022. i
- Additionally, Mr. Pfeifer reviewed the graph which represented historical changes in unpaid loss. He discussed the impact of ultimate loss changes on BRIM's financial statements.
- The Loss Funding portion of the report was reviewed. The General Liability, Medical Malpractice, Automobile and Property information and graphs were explained in detail.
- Mr. Pfeifer also thoroughly reviewed the Interim Study as of 12/31/2023. An overview of results was outlined as well as a table of results by coverage.

- The Ratings portion of the report was discussed including the Medical Professional Liability Market Update, the Property & Casualty Market Update and the Policy Year 7/1/24 - 25 Rating for BRIM.
- Mr. Pfeifer offered to answer any questions regarding the presentation. There were no questions. Mr. Pfeifer thanked the board for their time. The Risk Funding Study Report - June 30, 2023, was received, a copy is attached and made part of the record.

## **Executive Director's Report**

- Melody Duke was asked to present the Executive Director's Report. She began with an overview/detailed explanation (wording and content as outlined in her report) of the 2024 Legislative Session as follows:

**SB685/HB5593** - *Continuing and updating Board of Risk and Insurance Management relating to the creation, composition, qualifications and compensation of the State Board of Risk and Insurance Management - The bill changes the qualifications to 10 years of insurance industry experience. This bill passed in the House on 2/23/2024 and passed in the Senate 2/28/2024 with a title amendment but the House did not concur on the title amendment before the session ended on 3/9/2024.*

**SB686/HB5643** - *Prohibiting actions for damages or attorney's fees in cases involving Board of Risk and Insurance Management/Relating to actions for damages or attorney's fees in cases involving Board of Risk Management and Insurance - This provides that no action for damages or attorney fees under Shamblin v. Nationwide Mut. Ins. Co., 183 W. Va. 585 (1990) shall be awardable or cognizable against the board or any person employed by the board or any entity with which the board has contracted to administer the board programs. The amendments to this section enacted by the Legislature during the 2024 Regular Session apply retrospectively to all pending claims and actions. This bill passed in the Senate on 2/27/2024 and was assigned to House Finance on 2/29/2024 but did not leave the committee before the session ended.*

**SB795/HB5688** - *Limiting liability for accredited academic hospitals/Relating to accredited academic hospitals - This would create the ability for nonprofit accredited academic hospitals to seek professional liability coverage with BRIM. I am not sure that the intent is for all eligible hospitals to seek BRIM coverage or maybe just one but the way the bill is currently written is not clear and does need input from BRIM. Neither SB nor HB made it out of committee.*

**SB839** - *Providing County boards of education options for obtaining liability insurance coverage. This would allow BOE's to obtain liability insurance in the marketplace for coverage at the \$1.25M underlying and \$5M excess requirement. This bill did not make it out of committee.*

**SB875** - *The bill places a moratorium until July 1, 2025, on providing new or additional property or liability coverage to certain entities to which coverage is permissive and not mandatory. The prohibited entities include political subdivisions, charitable or public service organizations, and*

emergency medical services. The language exempts county boards of education, public charter schools, and certain other persons and entities from the moratorium. It authorizes BRIM to non-renew insurance coverage to any entity for which such coverage is permissive under state code.

The Bill creates two new sections §29-12-15 and §29-12-16 relating to liability or other insurance coverage provided by the BRIM. First, §29-12-15 places a moratorium on providing new coverage until July 1, 2025. Second, §29-12-16 relates to the non-renewal of policies for permissive non-governmental entities.

Insurance agents and industry representatives have contacted BRIM and OIC to express concerns about the inability to obtain coverage elsewhere and the lack of available options. OIC received concerns specifically from the Economic Development Authority and insurers of EMS and ambulance companies. This bill passed the House and Senate and is waiting on the Governor's signature.

**SB583** - The Bill creates a new section, §55-7-32, relating to employer liability and damages in civil actions based upon negligence in the operation of commercial motor vehicles.

It defines Commercial motor vehicle to include a truck tractor, road tractor, trailer, semitrailer. Additionally, the definition does not include a vehicle serving as a common carrier of passengers, a commercial motor vehicle, a school bus, or other vehicle that is primarily engaged in transporting passengers.

The final version established a monetary cap of \$5 million per injured or killed person. Some state agencies own vehicles that would qualify as a commercial motor vehicle. Currently constitutional immunity applies to any award against the state for more than \$1M. If constitutional immunity is challenged in court and a judge determines the new \$5M cap applies to non-economic damages, it exceeds the current limits of \$1M. The code is confusing and unclear. It states the cap for compensatory damages for noneconomic loss is \$5M per occurrence. However, it goes on to state that the limitation only applies if the defendant does not have commercial insurance of at least \$3M per occurrence.

The section creates a new exposure. BRIM is unsure how many of the currently insured "heavy vehicles" would qualify as a commercial motor vehicle. BRIM would have to create a new exposure classification and provide an inventory survey for each insured. It will be nearly impossible to complete by July 1, 2024. **This bill passed the House and Senate and is waiting on the Governor's signature.**

- Next, Mrs. Duke also reported on the Broker RFP that BRIM released and was awarded to USI. A planning meeting is scheduled for March 28, 2024. USI will approach the market on BRIM's behalf related to our liability and auto program and hopefully provide pricing for a true transfer product, fronting arrangement and/or another alternative program.
- The Executive Director also announced that BRIM has recently experienced some employee changes. BRIM welcomes Catherine Harless in the Finance Department and congratulates Shelley Brightwell on her promotion from

Insurance Claims Representative 2 to Insurance Claims Representative Supervisor.

- BRIM will be starting the process of branding our agency through a logo and other publications/awareness to aid in communication with the legislature and the public. We are excited about this process and opportunity to provide relevant information regarding BRIM.
- Reminder of the Upcoming Board Meeting schedule for 2024 includes the following:

Tuesday, June 25, 2024 @ 1PM

Tuesday, September 17, 2024 @ 1PM

Tuesday, December 17, 2024 @ 1PM

- The Executive Director's Report was received and filed, a copy is attached and made part of the record.

### **BRIM Financial Report**

- Stephen Panaro was asked to present the Chief Financial Officer's Report to the Board.
- Mr. Panaro reviewed the P-Card Report for November 2023 - January 2024.
- Mr. Panaro reported on the financial results as follows:
- Presentation of the seven months ending January 31, 2024. The results reflect the actuarially estimated unpaid losses from AON's risk funding study as of December 31, 2023, and accruals for January.
- Net premium revenue through January has increased \$9.4 million compared to FY23. The increase reflects an increase in premiums based on the actuarial estimated loss pics.
- Retained case reserves are \$32.3 million lower this year compared to the prior year and actuarially estimated IBNR is \$36.6 million lower than the prior year. Combined total current and non-current claims liabilities (i.e., unpaid claims) are \$68.9 million lower than last year through January. Our reserve adjustment in the second quarter of this year was a reduction in reserves due to claims previously part of our reserves being settled compared with an increase in reserves in the second quarter of FY23.
- Claims and claims adjustment expense of \$60.4 million is \$44.5 million dollars lower than last year due to lower claims payments during the current fiscal year.
- Presentation also included information regarding the Investment income through January was \$12.4 million compared to investment income through January of 2023 of \$5.6 million. This is a positive year-over-year change of \$6.8 million. Through January the Bank of New York trust earned \$8.6 million. Equity markets experienced volatility during FY23 and that trend continues in FY24. Our returns with the West Virginia Investment Management Board were positive through January with income of \$3.2 million. We also earned \$662,000 from our accounts with the West Virginia Board of Treasury Investments.
- The report also detailed the combination of higher reinsurance premiums, lower claims expense, positive investment returns and a small increase in premium revenue resulted in an increase in net position of \$8.1 million compared with a decrease in net position of \$52.2 million in FY23. The largest factor in this increase was the decreased claims and claims adjustment expenses. The overall impact is a year-over-year positive change of \$60.3 million.

- Our current net position of \$76.9 million includes the mine subsidence program's net position of 35.7 million, leaving BRIM's unrestricted net position at \$41.2 million. This compares with a net position of \$99.2 million last year and a net position at June 30, 2023 of \$68.8 million.

Mr. Panaro's report also included information regarding the Financial Markets as follows:

- The financial markets have continued to fluctuate since we last met. The Dow Jones Industrial Average has been fluctuating between 38,000 and 39,000 during the beginning of March. The yields on US Treasury Notes have declined since the beginning of March. With the 10-year Note currently yielding just over 4%.
- In testimony before Congress on March 6th, Fed Chairman Powell stated that "We believe that our policy rate is likely at its peak for this tightening cycle." He also stated that "If the economy evolves broadly as expected, it will be appropriate to begin dialing back policy restraint at some point this year." Core inflation, which excludes the food and energy categories, was 2.8% in January. Core inflation was 3.6% in September.
- Because of the uncertainty with interest rates, the volatility of the stock market and inflation concerns BRIM's investment returns outlook remains uncertain for FY24.
- Mr. Panaro asked for questions, no questions. The Chief Financial Officer's Report (including financials) was received and filed, a copy is attached and made part of the record.

### **Loss Control Report**

- Jeremy Wolfe was asked to present the Loss Control Report.
- Mr. Wolfe reported that Non-state agency loss control questionnaires were due on January 1 2023. Since that time, we have been evaluating those questionnaires to apply credits or surcharges based on insured participation in our Standards of Participation program. We hope to complete the evaluation process during March; to date, we have completed **807** evaluations.
- During the spring, we will concentrate our loss control consultation services toward insured entities who operate treatment facilities and/or shelters focusing on the exposures of physical and sexual abuse. Abuse risk management assessments will be conducted and loss prevention recommendations will be made based on assessment results. We hope these efforts will assist the insured in identifying the primary areas in which claims could occur and provide an opportunity for us to give advice as to developing specific strategies and methods to enable the insured to control and/or avoid preventable claims
- Mr. Wolfe also reported BRIM is continuing their partnership with the West Virginia Public Service Commission by contributing risk management news articles for their quarterly newsletter The Pipeline. This newsletter is distributed to public utility organizations and public service districts throughout the state.
- For the year 2023, the Department completed 134 consultation visits which was the largest total since 2011. We are pleased with the specialists' efforts as these visits remain the keystone of our risk management efforts

- During the months of December January and February Tawney conducted 225 inspections and Liberty Mutual Insurance conducted 796. The reports are being processed according to established procedures.
- Mr. Wolfe asked if there were any questions, no questions. The Loss Control Report was received and filed, a copy is attached and made part of the record.

### **Privacy Report**

- Ashley Summitt was asked to present the Privacy Report.
- Ms. Summitt reported on Management Team Meetings. On March 26, 2024, the Privacy Management Team will meet virtually. The agenda includes a Cybersecurity Update, Basic Processes for a Virtual Private Network, and explanation of the Office of Technology's Litigation Hold Access process, an incident checklist overview and discussions about Data Privacy Week and the upcoming Privacy Retreat.
- Plans are underway for the Privacy Office upcoming retreat. The event will be held at Pipestem Resort State Park, June 10 - 12, 2024. The theme for the retreat is the *Importance of Partnership in Protecting Data Privacy*.
- The Chief Privacy Officer reported on Privacy Trainings.
- During the First Quarter of 2024, 352 members of the Executive Branch workforce completed the online course *WV Confidentiality Agreement*, which is required of all workforce members.
- During the First Quarter of 2024, the Executive Branch workforce completed 107 of the online course *HIPAA/HITECH*, a general training course and new *HIPAA Refresher Training (2021)* which was requested by PEIA.
- During the First Quarter of 2024, 2975 members of the Executive Branch workforce completed the online course of Cybersecurity, which is required for all workforce members.
- As a result of Data Privacy Week participation, 16,873 members of the Executive Branch workforce completed the additional privacy training offered during that week.
- Ms. Summitt reported on the following training events held by the SPO since the last board meeting:

During Data Privacy Week (January 22 - 27, 2024), the State Privacy Office disseminated, through members of the Privacy Management Team, emails to all state employees of the Executive Branch different topics of data privacy each day. These emails contained substantive articles and videos as well as activities and puzzles. Small privacy prizes were awarded to the first ten people to successfully complete the puzzle.

- Ms. Summitt's report also included information on Privacy Impact Assessments/Privacy Incident Response Assessments. A Privacy Impact Assessment (PIA) is a tool used to assess the privacy impact and risks to the personally identifiable information (PII) stored, used and exchanged by information systems. A PIA evaluates privacy implications when information systems are created, when existing systems are significantly modified or new technology is purchased.

- Ms. Summitt reported on State Privacy Office Projects. The State Privacy Office has been meeting with the Departmental Privacy Officer for the WV Department of Health and Human Resources (WV DHHR) regularly to formulate a plan to provide technical support to DHHR with a needed HIPAA Hybrid analysis for each of the three new Cabinet level departments that were formed from the previous structure of the WV DHHR. This project will hopefully be completed by year's end. i
- Ms. Summitt asked for any questions, no questions. Privacy Report was received and filed, a copy is attached and made part of the record.

#### **UNFINISHED BUSINESS**

#### **NEW BUSINESS**

#### **ADJOURNMENT**

- There was a request for a motion to adjourn the BRIM board meeting. Member Kristin Boggs moved the meeting adjournment. The motion was seconded by Member Leah Cooper.
- No discussion, a vote took place and the MOTION ADOPTED. The meeting adjourned.

---

Board Chairman

---

Date

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
Melody.A.Duke@wv.gov

**Executive Director's Report  
June 25, 2024**

**A. Marshall University and West Virginia University Medical Malpractice Program**

- As of June 6, 2024, Marshall has deposited \$1,873,000 into the escrow account for FY 2024. The fiscal year-to-date cumulative interest totals \$52,941.22. Disbursements totaling \$1,767,998.43 have been paid thus far in FY 2024.
- As of June 6, 2024, a total of \$7,949,654.79 has been deposited into WVU's escrow account for FY 2024. The fiscal year-to-date cumulative interest totals \$135,815.91. Disbursements totaling \$8,095,101.28 have been paid thus far in FY 2024.

**B. State and Non-State Liability Claims & Litigation Information**

**TRIALS**

We have tried two cases to verdict so far in 2024, with one defense verdict and one mistrial due to a hung jury.

2/14/2024 (501-939820) Insured: WV Division of Corrections; Plaintiff: Joshua Short; U.S. Dist. Ct. – So. WV (Beckley); Mistrial due to hung jury. Inmate Joshua Short alleged injury as the result of excessive force. Last Demand was \$49,000 and last offer was \$5,000. **This case was settled for \$15,000 on May 2, 2024.**

2/22/2024 (501-920311) Insured: Marshall University; Plaintiff: Hannah Cyrus; Cabell Co. Cir. Ct. Defense Verdict. Plaintiff alleged failure to timely diagnose ectopic pregnancy caused her pain and suffering, but she gave birth to a healthy child. We made no offer on this medical malpractice case.

**PAID CLAIMS (May 2024 Data)**

May 2024 Indemnity payments total \$6,300,000 vs May 2023 payments of \$11,500,000 a decrease of 45.2%.

May 2024 Legal payments total \$2,100,000 vs. May 2023 Legal payments of \$2,100,000 an increase of 0%.

### **OUTSTANDING CLAIMS (May 2024 Data)**

May 2024 Indemnity reserves total \$104,500,000 vs. May 2023 Indemnity reserves of \$152,800,000 a decrease of 31.6%.

May 2024 Expense reserves total \$41,700,000 vs. May 2023 Expense reserves of \$33,900,000 an increase of 23%.

### **CLAIMS COUNTS (May 2024 Data)**

May 2024 New claims of 271 vs. May 2023 of 336, a decrease of 19.3%.

May 2024 Closed claims of 359 vs. May 2023 of 366, a decrease of 1.9%.

May 2024 Open claims of 1200 vs. February 2023 of 1200, an increase of 0%.

### **DURATION – CREATE TO CLOSED DATE CLAIMS (May 2024 Data)**

May 2024 Duration of 114 Days vs. May 2023 Duration of 128 Days, a decrease of 10.9 %.

### **CLOSING RATIO (May 2024 Data)**

May 2024 Closing Ratio of 131.4% vs. May 2023 Closing Ratio of 108%, an increase of 21.6 %.

A. Insurance Renewals – BRIM is awaiting insurance renewals for the upcoming fiscal year. The brokers for cyber and property report that the market is stabilizing some but to expect either a temperate increase in property and that the cyber may be flat for or slight increase if we would want to increase our limits.

B. Liability Broker – BRIM met with USI for the first strategic meeting on March 28, 2024. Planning centered on variations of risk transfer products, information needed to approach the market, claims made versus occurrence-based policies and possible modifications to the AIG contract. A follow-up meeting is scheduled for Monday, July 8, 2024.

C. AIG Local Office – BRIM has received notification that five of the employees in the local Charleston Office have taken advantage of an early retirement program offered to them by AIG corporate. Chuck Waugh, Keith Turner, Joe Manoni, Bret Hart and Ann Pauley will be retiring at the end of July.

D. Branding/Website – BRIM met with the Department of Commerce's Marketing and Communications Division for assistance with the development of a BRIM logo. We asked our employees for logo ideas, and we received three submissions. These were provided to the Marketing folks, and they will combine those ideas and anything that are able to create for us to review and select a final logo. Additionally, BRIM is working with WV Creative on an updated website. They have provided a shell and Jason Stover will be working on revamping content and transferring date to the new site.

E. STRIMA – Melody Duke, John Fernatt and Woodrow White will be attending the 2024 STRIMA Conference this fall in Colorado Springs the week of September 7, 2024, through September 13, 2024. As Treasurer for STRIMA, I will be leaving on September 6, 2024, to attend the Saturday board meeting.

F. New Hire – We have said a welcome to new hire Katie Heindl in the Claims Department as a Claim Representative I. Katie replaces Shannon Shaffer who passed suddenly this past January. BRIM has also made an offer for a Claim Representative II position to recent AIG retiree Bret Hart. This position is from the vacancy created when Robert retired in January

G. Upcoming Board Meeting schedule for 2023:

Tuesday, September 19, 2023 @ 1PM

Tuesday, December 12, 2023 @ 1PM

Sincerely,



Melody Duke  
Executive Director

MAD/ldm

# STATE OF WEST VIRGINIA

## DEPARTMENT OF ADMINISTRATION

### BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
[Melody.A.Duke@wv.gov](mailto:Melody.A.Duke@wv.gov)

#### Chief Financial Officer's Report June 25, 2024

##### A. P-Card Report

Electronic copies mailed to the board contain the supporting details for P-card purchases for the months of February through April 2024. These totals are:

February	\$50,869.52
March	\$80,546.68
April	\$27,911.28

##### B. Current Financial Results

- The financial results presented are for the ten months ended April 30th, 2024. The results reflect the actuarially estimated unpaid losses from AON's risk funding study as of March 31, 2024, plus an additional accrual for April.
- Net premium revenue through April has increased \$11.2 million compared to FY23. The increase reflects an increase in premiums based on the actuarial estimated loss pics.
- Retained case reserves are \$65.3 million lower this year compared to the prior year and actuarially estimated IBNR is \$4.2 million higher than the prior year. Combined total current and non-current claims liabilities (i.e., unpaid claims) are \$61.1 million lower than last year based on the March 31<sup>st</sup> AON actuarial study. Our reserve change in the third quarter of this year of \$3.3 million was due to small increases in both retained case reserves and IBNR.
- Claims and claims adjustment expense of \$85.6 million is \$37.1 million dollars lower than last year due primarily to decreased reserve adjustments during the current fiscal year.
- Investment income through April was \$8.8 million compared to investment income through April of 2023 of \$9.8 million. This is a negative year-over-year change of \$1 million. Through April the Bank of New York trust has gained \$3.5 million with income in July, August, November, December, January, and March offsetting the losses of the other months. Because of the relatively short duration of the fixed income holdings in the trust (3.7 years) and fluctuating bond prices the returns in the trust have been inconsistent. Equity markets experienced volatility during FY23 and that trend continues in FY24. We have earned \$4.3 million from our investments with the West Virginia Investment Management Board. Additionally, we had \$1 million of interest income from the BTI through April.

- The combination of higher reinsurance premiums, decreased claims expense than the prior year, positive investment returns and increased premium revenue resulted in an increase in net position of \$1.8 million compared with a decrease in net position of \$45.3 million in FY23. The largest factor in this increase over the prior year has been the lower reserve adjustments during the current fiscal year. The year-to-date positive change in retained earnings, while not significant, is a marked improvement from FY23.
- Our current net position of \$70.6 million includes the mine subsidence program's net position of \$37 million, leaving BRIM's unrestricted net position at \$33.6 million. This compares with a net position of \$106 million last year.

### C. Financial Markets

Financial markets have continued to be **volatile** since we had our last meeting in March. The DJIA has had many peaks and valleys this year, with a year to date **return** of 3.9%. With the **continued** uncertainty in the economy this **volatility** is likely to **continue**.

At their June 12<sup>th</sup> meeting the Federal Reserve voted to hold interest rates steady. Federal Reserve Chair Jerome Powell noted that the May Consumer Price Index was "certainly a better inflation report than almost anybody expected." It is anticipated that the Fed will cut interest rates one time in the remainder of this year. He also stated that the Fed anticipates further rates cuts in 2025 and 2026.

Hiring continued to be strong in May with 272,000 jobs added. Unemployment rose to 4% in May following April's rate of 3.9% this was the first time in more than two years the unemployment rate was at 4%. The unemployment rate was as low as 3.4% last year. The unemployment rate remains low by historical standards and shows no signs of making a big jump. The consumer price index increased 3.3% from May 2023 to May 2024, the change from April 2023 to April 2024 was 3.4%. Core prices which exclude food and energy items rose 0.2% from April. This was the lowest increase since 2021. Consumers are taking little comfort from the lower inflation numbers due to the increases since 2021. Over the last four years prices are up 21% in the CPI compared with 7% in the four years before that.

Because of high interest rates, the volatility of the stock market and inflation concerns BRIM's investment returns outlook remains uncertain for FY24.

Respectfully submitted,

  
Stephen W. Panaro, CPA  
Chief Financial Officer

# West Virginia Board of Risk and Insurance Management

## Statements of Net Position

For the Ten Months Ended April 30th

	2024	2023
	(In Thousands)	
<b>Assets</b>		
<b>Current assets:</b>		
Cash and cash equivalents	\$ 27,090	\$ 25,172
Advance deposits with insurance company and trustee	252,569	256,664
Receivables	23,370	5,984
Prepaid insurance	2,447	1,326
Restricted cash and cash equivalents	8,226	4,746
Premiums due from other entities	1,534	1,222
<b>Total current assets</b>	<b>315,236</b>	<b>295,115</b>
<b>Noncurrent assets:</b>		
Equity position in internal investments pools	56,636	151,987
Restricted investments	31,656	29,312
<b>Total noncurrent assets</b>	<b>88,292</b>	<b>181,300</b>
<b>Total assets</b>	<b>403,528</b>	<b>476,415</b>
Deferred Outflows of Resources	399	434
Deferred Outflows of Resources - OPEB	59	61
<b>Liabilities</b>		
<b>Current liabilities:</b>		
Estimated unpaid claims and claims adjustment expense	189,423	103,306
Unearned premiums	21,767	17,607
Agent commissions payable	1,353	1,195
Claims Payable	47	0
Accrued expenses and other liabilities	22,599	3,042
<b>Total current liabilities</b>	<b>235,189</b>	<b>125,151</b>
Estimated unpaid claims and claims adjustment expense net of current portion	97,705	244,991
Compensated absences	192	167
Net pension liability	148	(894)
<b>Total noncurrent liabilities</b>	<b>98,045</b>	<b>244,264</b>
<b>Total liabilities</b>	<b>333,234</b>	<b>369,416</b>
Deferred Inflows of Resources	0	1,156
Deferred Inflows of Resources - OPEB	137	280
<b>Net position:</b>		
Restricted by State code for mine subsidence coverage	32,363	75,988
Unrestricted	36,438	75,415
Net Assets (Deficiency)	1,816	(45,345)
<b>Net position</b>	<b>\$ 70,617</b>	<b>\$ 106,058</b>

Unaudited

# West Virginia Board of Risk and Insurance Management

## Statements of Revenues, Expenses, and Changes in Net Position

For the Ten Months Ended April 30th

	2024	2023
	<i>(In Thousands)</i>	
<b>Operating revenues</b>		
Premiums	\$ 95,836	\$ 79,834
Less coverage/reinsurance programs	(12,451)	(7,643)
Net operating revenues	83,385	72,191
<b>Operating expenses</b>		
Claims and claims adjustment expense	85,570	122,718
General and administrative	4,766	4,601
Total operating expenses	90,336	127,319
Operating income (loss)	(6,951)	(55,128)
<b>Nonoperating revenues</b>		
Investment income	8,767	9,783
Legislative Appropriation	0	0
OPEB Non Operating Income	0	0
Net nonoperating revenues	8,767	9,783
Changes in net position	1,816	(45,345)
Total net position, beginning of year	68,801	151,403
Total net position, end of period	\$ 70,617	\$ 106,058

*Unaudited*

STATE OF WEST VIRGINIA  
DEPARTMENT OF ADMINISTRATION  
BOARD OF RISK AND INSURANCE MANAGEMENT



Mark D. Scott  
Cabinet Secretary

Melody Duke  
Executive Director  
[Melody.A.Duke@wv.gov](mailto:Melody.A.Duke@wv.gov)

**Loss Control Report to the Board  
June 2024**

During the month of May, we sent out Loss Control Questionnaires to all state agencies. The deadline for submission to BRIM is August 1, 2024. At that time, we will gather the necessary information for calculation of loss control credits or surcharges for fiscal year 2026.

The evaluations of fiscal year 2025 Loss Control Questionnaires yielded the following results. Seventy-three percent of the state agency program received a form of a loss control credit. Fifty-five percent of the non-state entities received a form of a loss control credit. These results are promising and show that many of our insured are instituting risk management programs to aid in the mitigation of insurable claims.

We have extended requests to renew our contracts for insurance loss control inspection services with Tawney Insurance and Safety Solutions and our boiler and air conditioning systems insurance and loss prevention inspection services with Liberty Mutual Insurance.

During the months of March, April, and May Tawney conducted 269 inspections and Liberty Mutual Insurance conducted 793. The reports are being processed according to established procedures.

Since my last report, our loss control technical staff reports the following activity:

**25 Standards of Participation Visits**

These are visits which are designed to provide assistance to our insured who are seeking to become compliant with the BRIM Standards of Participation program.

**Insured Accounts Visited Include:** Augusta Heritage Center, Elkins Main Street, Morgan County Partnership, Homeownership Center, Randolph County Housing Authority, West Virginia Jobs Investment Trust, West Virginia Division of Forestry, Glenville State University, West Virginia Board of Physical Therapy, West Virginia Board of Optometry, Logan County Housing Authority, Calhoun County Livestock Program, Town of Pine Grove, Town of Pine Grove, Town of Meadow Bridge, Project Rainbow, A New Beginning Pregnancy Resource Center, Light Up Capon Bridge, Inc., Town of Renick, Normantown Historical Community Center, West Virginians 4

**Affordable Health Care, Global Capital of World Peace, Ohio Valley ADC, Ohio Valley Industrial & Business Development, Town of Gauley Bridge, Town of Oakvale, and Mineral County Homeless Coalition.**

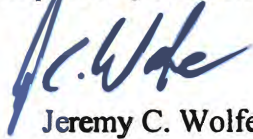
**21 Loss Control Visits**

**These are standard loss control visits which focus on all coverage areas and which result in information and/or loss control recommendations being provided.**

**Insured Accounts Visited Include:** Florence Crittenton Programs, Hardy County Child Care Center, John W. Hereford Boys & Girls Club, North Central West Virginia Community Action Association, Roane County Patch, Hero House, Inc., Branches Domestic Violence Shelter of Huntington West Virginia, Inc., Appalachian South Folk Life Center, Inc., Rea of Hope Fellowship Home, Sound Mind, Genesis Youth Center, Inc., Concord University Research & Development, Pollen 8, Community Resources, Mountainheart Community Services, Recovery Group of Southern West Virginia, Bartlett House, Inc., Upshur County Human Resources, Inc., Northern Panhandle Head Start, and Tug Valley Recovery Association, Inc.

**Dated:** June 18, 2024

Respectfully submitted,



**Jeremy C. Wolfe  
Deputy Director / Risk Manager**



## Chief Privacy Officer's Report June 25, 2024

### A. Management Team Meetings

- On March 26, 2024, the Privacy Management Team held a meeting virtually, with 62 people attending. The agenda included a Cybersecurity Update, Basic Processes for a Virtual Private Network, an explanation of the Office of Technology's Litigation Hold Access process, an incident checklist overview, and discussions about Data Privacy Week and the upcoming Privacy Retreat.
- The State Privacy Office held its semi-annual Privacy Retreat on June 10-12, 2024. The two and half day event was held at the Pipestem Resort State Park with 61 people attending. The theme for the retreat was the *Importance of Partnerships in Protecting Data Privacy*, and Cabinet Secretary Mark Scott as the keynote speaker describing the work he has done with developing leaders for the Department of Administration and how that relates to teamwork. Other presentations included *Teamwork Makes the Dream Work*, *Protecting Privacy in 2024: Leveraging Your Partners in the 2024 Landscape*, *WV Office of Technology: Data Privacy*, and *Privacy Risks and Our Vendor Partners*.

### B. Privacy Training

- During the Second Quarter of 2024, 461 members of the Executive Branch workforce completed the online course *WV Confidentiality Agreement*, which is required of all workforce members.
- During the Second Quarter of 2024, the Executive Branch workforce completed 288 of the online courses *HIPAA/HITECH*, which is a general HIPAA training course and a new *HIPAA Refresher Training (2021)* which PEIA has requested.
- During the Second Quarter of 2024, 466 members of the Executive Branch workforce completed the online course for Privacy Training.

The following training events were held by the SPO since the last board meeting:

- The March 26, Privacy Management Team was held virtually with people attending.
- The semi-annual Privacy Retreat was held June 10-12 at Pipestem State Resort with 61 people attending in person.
- The Deputy CPO presented *Purchasing as a Privacy Powerhouse* during a webinar of procurement staff for the WV Division of Purchasing.

#### **C. Privacy Impact Assessments/ Privacy Incident Response Assessments**

- A privacy impact assessment (PIA) is a tool used to assess the privacy impact and risks to the personally identifiable information (PII) stored, used, and exchanged by information systems. A PIA evaluates privacy implications when information systems are created, when existing systems are significantly modified, or new technology is purchased.
- Since March 1, 2024, 18 PIAs have been completed and submitted.

#### **D. State Privacy Office Projects**

- The State Privacy Office has been meeting with the Departmental Privacy Officer for the WV Department of Health and Human Resources (WV DHHR) and the Bureau for Medical Service's Assistant General Counsel, regularly to begin the process for documenting and interviewing managers in relation to HIPAA application to programs within the former DHHR.

Very truly yours,

**Ashley Summitt**

Ashley Summitt, JD  
Chief Privacy Officer  
WV Executive Branch