

Full Performance Evaluation

**West Virginia Parkways,
Economic Development and
Tourism Authority**

**The Economic Development and Tourism
Activities of the Parkways Authority Have
Created a Financial Burden That Hinders the
Agency's Overall Performance**

**Some EDT Activities Are Questionable
and Do Not Follow the Spirit of the
Enabling Legislation**



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John Sylvia
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January 8, 2007

The Honorable Edwin J. Bowman
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The Honorable J.D. Beane
House of Delegates
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Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Full Performance Evaluation on the West Virginia Parkways, Economic Development and Tourism Authority, which will be presented to the Joint Committee on Government Operations on Monday, January 8, 2007. The issues covered herein are "The Economic Development and Tourism Activities of the Parkways Authority Have Created a Financial Burden That Hinders the Agency's Overall Performance;" and "Some EDT Activities Are Questionable and Do Not Follow the Spirit of the Enabling Legislation."

We transmitted a draft copy of the report to the West Virginia Parkways, Economic Development and Tourism Authority on December 21, 2006. We held an exit conference with the West Virginia Parkways, Economic Development and Tourism Authority on December 28, 2006. We received the agency response on January 5, 2007.

Let me know if you have any questions.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

JS/jda

Joint Committee on Government and Finance

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Executive Summary

Issue 1: The Economic Development and Tourism Activities of the Parkways Authority Have Created a Financial Burden That Hinders the Agency's Overall Performance.

The Tamarack project has become an expensive endeavor that diverts a significant amount of revenue away from important needs of the agency, as well as a potential loss of revenue if the Tamarack facility were a revenue-raising project.

The Legislative Auditor determined 156 of those projects, totaling a little over \$4.3 million, to be outside of the Legislative intent. These questionable projects include donations and investment in private business by purchasing preferred stock and forming limited partnerships through which the Authority gained partial ownership of the company or property.

Since the West Virginia Parkways, Economic Development and Tourism Authority (Parkways Authority) received authorization to invest in economic development and tourism (EDT) projects in 1989, the Parkways Authority has invested over \$36 million. Although these projects have been beneficial to local communities, they have provided a minuscule financial return to the Parkways Authority. A major EDT project, the Caperton Center (Tamarack), including the Conference Center, requires continual financial support from Parkways because Tamarack has not been financially self-sufficient in its 10 year existence. This support has grown to nearly \$3 million a year. The Tamarack project has become an expensive endeavor that diverts a significant amount of revenue away from important needs of the agency, as well as a potential loss of revenue if the Tamarack facility were a revenue-raising project. Therefore, the Legislative Auditor recommends that the Parkways Authority seek EDT projects that provide a financial return to the agency. The Parkways Authority should also reevaluate the Tamarack project's mission of supporting the arts and crafts industry, and consider alternative uses for the Tamarack facility that would make it a revenue-raising facility.

Issue 2: Some EDT Activities Are Questionable and Do Not Follow the Spirit of the Enabling Legislation.

The Legislative Auditor observed that since 1990 the Parkways Authority has invested in a total of 181 projects and spent more than \$36 million. The Legislative Auditor determined 156 of those projects, totaling a little over \$4.3 million, to be outside of the Legislative intent. These questionable projects include donations and investment in private business by purchasing preferred stock and forming limited partnerships through which the Authority gained partial ownership of the company or property. A legal analysis from Legislative Services within the Legislative Auditor's office finds that while the statute is not explicit, it is highly suggestive as to the types of projects that the Legislature intended for the Parkways Authority to undertake. The Parkways Authority has broadly interpreted its enabling legislation. The

Legislative Auditor is concerned that this broad interpretation of statute has resulted in investments in unauthorized projects which keep EDT funds from being spent on valid projects that could provide a rate of return to the Parkways Authority and replenish funds for future EDT projects and to meet other important needs such as road construction and repair.

Recommendations

1. *The West Virginia Parkways, Economic Development and Tourism Authority should seek economic development and tourism projects that provide a financial return to the agency.*
2. *The West Virginia Parkways, Economic Development and Tourism Authority should evaluate the intangible benefits from the Tamarack system to the State in comparison to the opportunity costs of financial resources that could be used for other purposes of the agency, and the potential loss of revenue if the Tamarack facility was a source of revenue.*
3. *If the West Virginia Parkways, Economic Development and Tourism Authority determines that changes to the Tamarack system cannot be made to make it a profitable endeavor, the agency should consider alternative uses for the Tamarack facility that may be more beneficial to the State than its current use.*
4. *The West Virginia Parkways, Economic Development and Tourism Authority should report to the Joint Committee on Government Operations during the May 2007 interim meetings on its options to make Tamarack a profitable project or alternative purposes for Tamarack that would be in the best interest of the State.*
5. *The Parkways Authority should discontinue investing in projects that do not fall within the enabling legislation.*
6. *If the Legislature approves of the Parkways Authority's economic development and tourism promotion activities, it should consider amending the agency's enabling statute to clearly authorize these activities.*

Review Objective, Scope and Methodology

The West Virginia Sunset Law, Chapter 4 article 10, requires and authorizes the Legislative Auditor to conduct a Full Performance Evaluation of the WV Parkways Economic Development and Tourism Authority (Parkways Authority). The Parkways Authority oversees the maintenance and operation of the WV Turnpike. In addition, the Parkways Authority is authorized and empowered to construct and operate parkways projects, economic development projects and tourism projects.

Objective

The objective of this review is to evaluate the Parkways Authority's performance of its economic development and tourism (EDT) function. The specific intent of this analysis is to determine if the EDT function complies with the legislative intent of the agency's enabling legislation, and how the EDT activities affect the agency's overall performance.

Scope

This evaluation covers the time period of 1990 to 2006. The scope of this review concentrated exclusively on the EDT activities of the Parkways Authority. No significant part of this evaluation focused on the turnpike operations.

Methodology

This evaluation included a review of the agency's annual reports, meeting minutes, including subcommittee meeting minutes, rules, all bond trust indentures, Comprehensive Annual Financial Reports for 1990 through 2005, and legal opinions provided at the request of the Parkways Authority. Discussions were also held with the agency's staff. A review of the Parkways Authority's enabling legislation, WVC §17-16A-1 et seq., was conducted to determine the legislative intent for the economic development and tourism aspect of the Parkways Authority. A legal opinion was obtained from Legislative Services within the Legislative Auditor's Office that determined the type of EDT projects that the Legislature envisioned to be undertaken by the Parkways Authority. All previous and current EDT projects undertaken by the Parkways Authority were reviewed.

The economic development and tourism department's financial statements were reviewed to distinguish and separate Tamarack's revenues and expenses from other EDT funds. Tamarack's total operating expenses, general and administrative expenses, bond payments, and Tamarack related expenses were isolated to determine whether or not the project is financially self-sufficient and if not, the amount of EDT funds that are being used to supplement Tamarack's revenue deficiency.

Issue 1

The Economic Development and Tourism Activities of the Parkways Authority Have Created a Financial Burden That Hinders the Agency's Overall Performance.

Issue Summary

A major EDT project, the Caperton Center (Tamarack), including the Conference Center, requires continual financial support from Parkways because Tamarack has not been financially self-sufficient in its 10 year existence.

Since the West Virginia Parkways, Economic Development and Tourism Authority (Parkways Authority) received authorization to invest in economic development and tourism (EDT) projects in 1989, the Parkways Authority has invested over \$36 million. Although these projects have been beneficial to local communities, they have provided a minuscule financial return to the Parkways Authority. A major EDT project, the Caperton Center (Tamarack), including the Conference Center, requires continual financial support from Parkways because Tamarack has not been financially self-sufficient in its 10 year existence. Some projects are donations that do not require any payback, while other projects either have lost money or break even.

The Parkways Authority has acknowledged that since 1996 the availability of funds for EDT projects has been severely limited because a substantial portion of funds are committed to one EDT project, Tamarack.

While the agency's statute does not explicitly state that it must invest in projects that provide a financial return to the agency, it stands to reason that the more the agency invests its limited funds in projects that do not provide a financial return or that need continual financial support, the less funds will be available for capitol improvements, road repair, road construction, or other EDT projects. The Parkways Authority has acknowledged that since 1996 the availability of funds for EDT projects has been severely limited because a substantial portion of funds are committed to one EDT project, Tamarack. **The Tamarack project has become an expensive endeavor that diverts a significant amount of revenue away from important needs of the agency, as well as a potential loss of revenue if the Tamarack facility were a revenue-raising project.** Furthermore, it is questionable that the economic stimulus Tamarack was intended to provide to the arts and crafts industry is commensurate with the financial burden it places on the overall operation of the Parkways Authority. Therefore, the Legislative Auditor recommends that the Parkways Authority seek EDT projects that provide a financial return to the agency. The Parkways Authority should also reevaluate the Tamarack project's mission of supporting the arts and crafts industry, and consider alternative uses for the Tamarack facility, including the Conference Center, that would make it a revenue-raising facility.

Parkways Authority Receives Minimal Financial Return on Its EDT Projects

The Tamarack project does not generate enough operating revenue to pay all of its operating expenses and the associated bond payments. Consequently, a substantial amount of the concession revenues are committed to Tamarack that could have been used for other EDT projects or for other areas of the agency, such as capital improvements, road repair or road construction.

When the Parkways Authority received economic development and tourism authority in 1989, it used concession revenues from three travel plazas and investment income that had accumulated from 1980-89 to begin funding EDT projects. The amount that had accumulated during that time period was over \$5 million. Since 1989, Parkways Authority has used this revenue source, the proceeds from the issuance of revenue bonds, and interest income to fund EDT projects totaling over \$36 million.

Table 1 lists all EDT projects and shows the amount invested and the financial return to the agency. **A major problem with the agency's EDT activities is that the large majority of its projects do not provide a financial gain on the investment.** A major ongoing revenue source for EDT projects is concession and gas station revenues from three travel plazas. However, these limited funds have been pledged to one project, the Caperton Center, formerly Tamarack. Tamarack has not been financially self-sufficient in its 10 year existence. The Tamarack project does not generate enough operating revenue to pay all of its operating expenses and the associated bond payments. Consequently, a substantial amount of the concession revenues are committed to Tamarack that could have been used for other EDT projects or for other areas of the agency, such as capital improvements, road repair or road construction. It would be helpful if the agency's other EDT projects were providing a return that would enhance concession revenues. However, the other EDT projects have either provided a relatively small gain on the investment, do not require any payback, they break even or they have lost money (see Table 1).

Table 1
Parkways Authority
Total Amount Invested in EDT Projects

Project Category	Number of Projects	Total Amount Invested	Financial Return
Continual Financial Support Needed	1	\$27,465,000	The Tamarack Project Requires Ongoing Financial Support Totaling Over \$2 Million Annually
Financial Return	4	\$3,049,034	\$314,208 Received in Addition to the Principal Amount
Break Even	2	\$231,884	Principal Amount Paid Back
Donations*	167	\$2,499,978	No Pay Back Required
Financial Loss	6	\$1,392,400	- \$1,201,298 Principal Amount Lost
Legislative Mandate**	1	\$2,062,500	No Pay Back Required by Law
Totals	181	\$36,700,796	
<p>* The number of projects for donations is a duplicated number. Donations given to the same organization in different years or the same year are counted as a new project.</p> <p>** The Parkways Authority is required by law (§17-16A-13) to provide \$250,000 to the Hatfield-McCoy Regional Recreation Authority.</p> <p>Source: PERD Analysis of Parkways Authority Data.</p>			

The agency has limited its ability to fulfill its statutory mandates by taking on projects that provide no financial gain or that require ongoing support from limited financial resources.

Although the agency's statute does not explicitly state that it must invest in EDT projects that provide a monetary return, it is only logical that without some financial gains from investments, the agency will be limited in its overall operations. A larger source of EDT revenue would enhance the agency's ability to take on further projects or be used for road repair or road construction. Hence, the agency has limited its ability to fulfill its statutory mandates by taking on projects that provide no financial gain or that require ongoing support from limited financial resources. The general manager

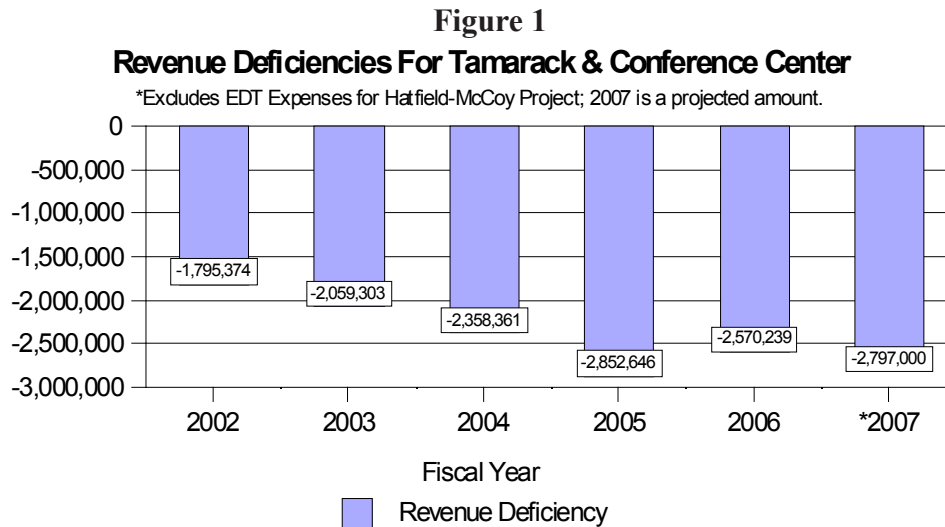
of the Parkways Authority has acknowledged that EDT activities have become restricted. The following is a statement from the general manager:

However, it is important to note that since the development of the Tamarack system in 1996, the availability of non-toll revenues for other projects has been severely restricted due to a large portion of these revenues being pledged to the debt service and the debt coverage requirements for the bonds used to construct the Caperton Center and subsequent bonds used to build the Tamarack Conference Center.

Tamarack's revenue short fall is well over \$2 million annually. Tamarack has not been financially self-sufficient since its inception in 1996.

Tamarack Has Not Been Financially Self-Sufficient in Its 10 Year Existence

When all of the operating expenses associated with the Tamarack system are considered, the revenue raised by Tamarack is insufficient to cover all of its operating expenses and its bond payment. The revenue shortfall is well over \$2 million annually. Tamarack has not been financially self-sufficient since its inception in 1996. Figure 1 shows the revenue shortfall for the last five fiscal years. The growth in the revenue deficiency of the past three years is primarily the result of the expansion of Tamarack to include the Conference Center, which opened in 2003. The Conference Center revenues are also insufficient to cover the added costs of staff and bond payments. **The revenue deficiencies do not include depreciation of the Tamarack facility.** Current depreciation is close to \$1 million a year. After 10 years of operation, the facility will likely require major repairs. The general manager of Parkways Authority has indicated that the roof appears to be in good condition; however, Tamarack will need a new HVAC system that will cost around \$500,000.



Concession revenues have grown to nearly \$3 million a year and over 90 percent of those revenues are needed to cover the revenue deficiency of Tamarack.

Most Available EDT Funds Go to the Tamarack Project

As indicated earlier, the Parkways Authority began its EDT projects from funds that accumulated from concession and interest income during 1980-1989. Concession revenues have grown to nearly \$3 million a year. The trust indenture for the revenue bonds issued for Tamarack and the Conference Center pledge all or a part of concession revenues to the Tamarack project. It is important to note that concession revenues could have been used for road construction and repair if not for the pledge to Tamarack. Moreover, if Tamarack were more self-sufficient, whatever funds are not necessary for Tamarack could be used for roads or other EDT projects. Table 2 shows the amount of concession revenue and the amount of these funds that are used for the Tamarack system. Since most of the agency's EDT projects do not provide a monetary return, concession revenues continue to be the primary source of funding for EDT projects, and unfortunately, most of these funds are used for only one project. Generally, over 90 percent of concession revenues are needed to cover the revenue deficiency of Tamarack. Interest income from debt reserves and investment returns from EDT projects are also used for EDT projects or for Tamarack, if necessary. The end-of-year balance of the EDT fund is \$4,332,000 for 2006.

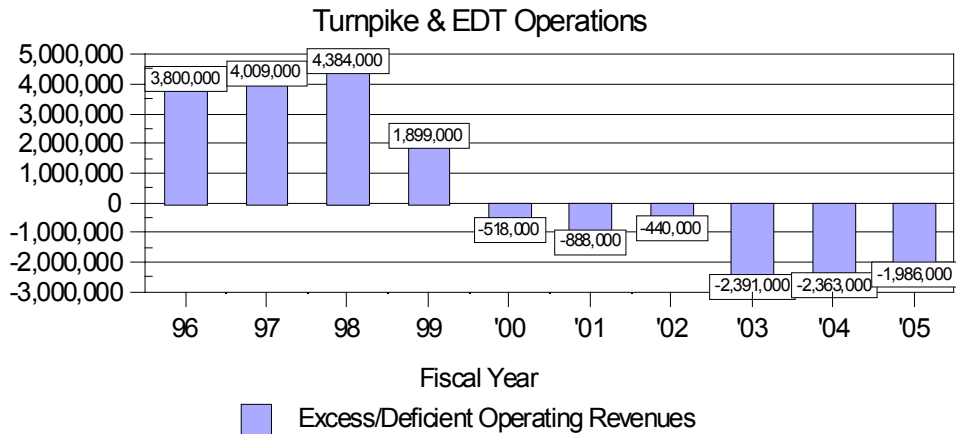
Table 2					
Tamarack Ongoing Support as a Percentage of Concession Revenues					
	2002	2003	2004	2005	2006
Concession Revenues: Restaurants, Gas Stations, Vending Machines	\$2,083,335	\$2,217,946	\$2,415,512	\$2,529,135	\$2,604,098
Tamarack Support	\$1,795,374	\$2,059,303	\$2,358,361	\$2,852,646	\$2,570,239
Difference	\$287,961	\$158,643	\$57,151	-\$323,511	\$33,859
Tamarack Support as a Percent of Concession Revenue	86.2%	92.8%	97.6%	112.8%	98.7%
EDT End-of-Year Fund Balance	\$3,186,000	\$3,607,000	\$4,086,000	\$3,783,000	\$4,332,000
<i>Source: PERD Analysis of Parkways Authority Data.</i>					

EDT Activities Impact Parkways Authority's Overall Operations

The Parkways Authority's EDT operations are significant enough to make a difference in its turnpike operations that would lessen the pressure to some extent for toll increases that were considered this past year.

The Parkways Authority has experienced operating revenue deficiencies in its overall operations in each of the past six years (see Figure 2). The amounts in Figure 2 include depreciation. The commitment of funds to support Tamarack and other EDT projects that do not provide a monetary return, divert needed funds from being used to fund other EDT projects, or possibly road repair and construction, or other turnpike needs. The Parkways Authority's EDT operations are significant enough to make a difference in its turnpike operations that would lessen the pressure to some extent for toll increases that were considered this past year. The financial condition of Parkways Authority overall operations makes it imperative for the agency to begin investing in EDT projects that provide a financial return to the agency.

Figure 2
Parkways Authority Overall Operations



The Tamarack System Is a Costly Endeavor That Needs to Be Reevaluated

Although the Tamarack system is an EDT project that provides an economic stimulus to local communities, it is also a project that requires nearly \$3 million annually in continual support from the agency, it provides no financial return to the Parkways Authority, and it precludes the use of funds for other important needs of the agency.

The Legislative Auditor has determined that the Tamarack system of promoting the State’s arts and crafts industry has become a costly enterprise that hinders the agency from carrying out its mandates of highway construction, repair, and economic development and tourism. Although the Tamarack system is an EDT project that provides an economic stimulus to local communities, it is also a project that requires nearly \$3 million annually in continual support from the agency, it provides no financial return to the Parkways Authority, and it precludes the use of funds for other important needs of the agency. The funds that have been pledged to support Tamarack have a high opportunity cost because they could be used for needed road repairs and construction. Furthermore, Tamarack’s benefit to the State’s arts and crafts industry is questionable.

The Parkways Authority has been involved in promoting the arts and crafts industry since the early 1990’s, soon after it received economic development and tourism authority in 1989. The Parkways Authority provided funding for performing arts and to allow individuals to demonstrate their crafts at Tourist Information Centers and at other locations. In 1996, after several years of planning, the Tamarack system of promoting the arts and crafts industry was developed. The central point of this promotional effort involved building the Tamarack facility, which was envisioned to be the primary retail center for the sale of high quality, West Virginia-made arts and crafts merchandise, West Virginia foods and other agricultural products, as well as a center for performing arts.

The creation of Tamarack was expected to have a direct and indirect economic impact of \$28 million annually. It was also expected that 2,200 to 2,400 full and part-time jobs would be generated through the sale of West Virginia-made merchandise at Tamarack. The Tamarack system also included selling its products at state parks, where it was projected that retail sales of Tamarack products would be 50 percent of total state park retail sales. Attendance at the Tamarack facility was estimated to be between 550,000 to 687,000 visitors each year. Some also predicted that the Tamarack facility would encourage artisans to migrate to West Virginia from bordering states.

The total cost of Tamarack to build was \$19.4 million. In June 2003, Tamarack was expanded to include a conference center, at a cost of \$7.6 million.

The Tamarack facility is beautiful and it has a unique building design with a distinctive red roof that resembles a circular starburst quilt pattern. It is located in Beckley, West Virginia, accessible from Interstate 77 at exit 45. Revenue bonds in the amount of \$9 million were issued in 1994 to partially finance the construction of the Tamarack facility. The total cost of Tamarack to build was \$19.4 million. The land was purchased at a price of \$1,265,000. The facility opened in May 1996. In June 2003, Tamarack was expanded to include a conference center, at a cost of \$7.6 million.

The Tamarack facility, including the conference center, is approximately 81,500 square feet. On average during the slow months of January through March, 135 contract employees work at the facility, including the warehouse. In peak season during the months of June through August, up to 165 employees will be employed. The total cost of contract personnel is over \$3 million annually. The facility retails thousands of items of glass work, clothing, food products, hand-made crafts, jewelry, wood work, books, and artwork. It has a performing arts theater that seats 178 people. Every Sunday it has various types of performing arts at no cost to the general public. The Tamarack facility also includes a restaurant, U.S. postal service to ship sold merchandise, five studios where visitors can observe artists produce their products, and an arts gallery that displays the work of West Virginia artists. The Parkways Authority provides the five studios, the equipment and utilities at no charge to the artisans. In return, studio artists spend much of their time representing Tamarack. The studio artists have occupied the studios for several years at a time.

The Tamarack system includes a “jury” process that judges the quality of artisans’ products. No product can be sold at Tamarack unless it is approved through the jury process. The jury process also applies to manufactured goods of private companies that are sold at Tamarack.

The Parkways Authority provides jury sessions twice a year at various West Virginia locations. Those who submit work receive individual counseling during the sessions from a master craftsperson in a specific media. Through the Artisans Services department of Tamarack, the Parkways Authority works closely with the Tamarack Foundation to develop workshops, training, and other programs that allow artisans to improve their business and artistic skills. The Parkways Authority contributed \$175,000 to \$325,000 a year over the past three years to the Tamarack Foundation. The Tamarack Foundation is a non-profit organization that also receives grants to assist and train artisans.

The Parkways Authority contributed \$175,000 to \$325,000 a year over the past three years to the Tamarack Foundation.

Over the 10 year history of Tamarack, 2,843 West Virginia artisans passed the jury process and have had products sold or available for sale at Tamarack. On average, 800 to 1,000 different artists have had items sold at any given time. During FY 2005, purchases were made from 1,182 different artisans. In 2005, approximately 11 percent of total sales at Tamarack were for products produced by private manufacturers, such as Fenton Art Glass company, and Blenko Glass company. The Parkways Authority purchases juried products from artisans at a wholesale price, and then sells them at Tamarack with a retail markup. The average retail markup in 2005 was 81 percent. The average retail sale at Tamarack is around \$25. Some products may go unsold for a couple of years. A small percentage of Tamarack sales are from consignment, in which artists receive 60 percent of sales. The Parkways Authority also has a warehouse facility to store products.

Over the 10 year history of Tamarack, 2,843 West Virginia artisans passed the jury process and have had products sold or available for sale at Tamarack.

The Tamarack system of promoting the arts and crafts industry has become expensive for the Parkways Authority. This project was expected to be financially self-supporting in its first year. However, the operating revenue of Tamarack has not been able to cover all of its operating expenses and bond payments at any time of its 10 year history. Table 3 provides a breakdown of the major departments of the Tamarack facility. The sales of arts and crafts has grown and has generally covered its operating costs, but the net profit is relatively small as a percent of gross sales. The food sales of Tamarack had two years (2003 and 2004) in which its operating revenue did not cover its operating expenses. In the other years the net profit was relatively small as a percent of total gross food sales. The Tamarack warehouse receives fees from the travel plazas for Tamarack merchandise that is delivered from the warehouse; however, these fees do not cover the operating expenses of the warehouse. Although there is a positive net profit in total for Tamarack, when the bond payment, general and administrative expenses, and other related Tamarack expenses are deducted, the Tamarack system has a revenue deficiency between \$2

million and \$3 million a year when all expenses are included.

It was originally expected that the Tamarack system would receive an added boost from the sales of products at the state parks. However, sales of Tamarack products were significantly less than hoped for at state parks. It was determined by the Parkways Authority that the typical visitor of state parks was more interested in souvenir-type merchandise instead of the type of merchandise sold at Tamarack. Therefore, since the spring of 1998, a nominal supply of Tamarack products has been delivered to state parks.

Although there is a positive net profit in total for Tamarack, when the bond payment, general and administrative expenses, and other related Tamarack expenses are deducted, the Tamarack system has a revenue deficiency between \$2 million and \$3 million a year when all expenses are included.

In response to this financial condition, the general manager of the Parkways Authority stated:

Since its inception, Tamarack has not generated sufficient revenue to pay all of its operating expenses and its bond payment. However, it is important to consider the intangible benefits of the larger mission of Tamarack to promote the cottage industry and enhance the image of the State of West Virginia. The positive impact on tourists and the benefits to individual artisans by increasing their direct sales is a very real boost to the State and the many craftspeople who produce the hand-crafted products.

It was originally expected that the Tamarack system would receive an added boost from the sales of products at the state parks. However, sales of Tamarack products were significantly less than hoped for at state parks. Therefore, since the spring of 1998, a nominal supply of Tamarack products has been delivered to state parks.

Table 3 Caperton Center (Tamarack) Detailed Statistics						
	2002	2003	2004	2005	2006	2007*
Arts & Crafts Net Profits	\$404,586	\$360,020	\$349,814	\$752,078	\$786,974	\$794,000
Food & Conference Center Net Profit	\$15,077	-150,267	-159,710	\$54,327	\$220,682	\$357,000
Warehouse	-76,610	-71,832	-108,150	-12,774	-11,735	-19,000
Tamarack Net Revenue	\$343,053	\$137,921	\$81,954	\$793,631	\$995,921	\$1,132,000
Tamarack General & Adm. Expenses	**	**	**	1,273,236	1,219,194	1,304,000
EDT Bond Payment	1,221,458	1,241,197	1,243,091	1,237,266	1,236,181	1,240,000
Tamarack Related Expenses	916,969	956,027	1,197,224	1,135,775	1,110,785	1,385,000
Tamarack Revenue Deficiency	-1,795,374	-2,059,303	-2,358,361	-2,852,646	-2,570,239	-2,797,000
<p>* 2007 figures are budgeted. ** General and administrative expenses were incorporated into the operating expenses for each department in 2002-2004. Source: PERD Analysis of WV Parkways Authority Financial Statements with Comparison.</p>						

Since the Tamarack project requires continual financial support from the Parkways Authority to survive, it diverts substantial financial resources away from other important needs of the agency. Although there are intangible benefits from Tamarack to local communities, it is questionable that the Legislature envisioned an EDT project that would

place such a financial burden on the agency. Even when the bond payment is paid in 2015, Tamarack may continue to have revenue deficiencies but to a lesser extent.

Although there are intangible benefits from Tamarack to local communities, it is questionable that the Legislature envisioned an EDT project that would place such a financial burden on the agency. Even when the bond payment is paid in 2015, Tamarack may continue to have revenue deficiencies but to a lesser extent.

If the Parkways Authority cannot make changes to make Tamarack a profitable endeavor, consideration should be given to using the Tamarack facility for alternative purposes.

The Parkways Authority has not provided any analysis on what the value is of the intangible benefits to local communities from Tamarack, and how it compares to the opportunity costs associated with the diversion of finances that could be used for road construction, road repair or other EDT projects that would provide a continuous source of revenue to the agency. The Parkways Authority provided the Legislative Auditor with economic impact analysis from the State director of the WV Small Business Development Center (SBDC); however, these analyses were for the arts and craft industry as a whole. There is no analysis of what Tamarack's direct and indirect impact is to the State. The Tamarack facility directly benefits a limited number of artists, about 1,000 a year. Tamarack's gross wholesale purchases from artists were around \$2.5 million in FY 2005. **This amounts to an average of about \$2,500 in gross revenue per artist.** After an artist's cost of production, net profit is clearly less than \$2,500. There may be other indirect benefits to artisans, but this is the direct measureable benefit. It is possible that these sales would have been made by the artists if Tamarack did not exist. Statistics from the SBDC study indicate that 70 percent of artists work alone and do not employ others, and the average income derived from craft-related sales is \$13,114, which is about 27.5 percent of the average artisan's total household income. The Parkways Authority needs to evaluate the overall benefits of Tamarack to the arts and crafts industry and weigh these benefits against the overall needs of the agency. **The Parkways Authority is under pressure to raise toll prices. This pressure would be lessened to some extent if it were not for the financial burden of the Tamarack system.** If the Parkways Authority cannot make changes to make Tamarack a profitable endeavor, consideration should be given to using the Tamarack facility for alternative purposes.

Conclusion

The West Virginia Parkways, Economic Development and Tourism Authority has been under financial pressure for at least the past six years. There are several sources that can explain this financial pressure; however, one source of the agency's financial stress is the funding that has been diverted each year to support the Tamarack system. This support has grown to nearly \$3 million a year. The overall cost to the agency is not only the \$3 million that is diverted to Tamarack, but also

the potential loss of revenue that could be raised if the Tamarack facility was a revenue-raising project.

The Tamarack system has not lived up to its original expectations. It is not financially self-sufficient as expected and it has not been throughout its 10 year existence. Given the current statistics, the Tamarack system may not be financially self-sufficient even when its revenue bonds are paid in 2015. Furthermore, it is questionable that the direct and indirect benefits from the Tamarack system compare to the opportunity costs associated with the diverted funds that are not available for other agency needs, and the loss of revenue if the Tamarack facility was a revenue-raising project. Consequently, the Legislative Auditor recommends that the Parkways Authority evaluate the Tamarack system to determine if the Tamarack facility should continue in its present purpose or be converted into a revenue-raising project.

The overall cost to the agency is not only the \$3 million that is diverted to Tamarack, but also the potential loss of revenue that could be raised if the Tamarack facility was a revenue-raising project.

Recommendations

1. *The West Virginia Parkways, Economic Development and Tourism Authority should seek economic development and tourism projects that provide a financial return to the agency.*
2. *The West Virginia Parkways, Economic Development and Tourism Authority should evaluate the intangible benefits from the Tamarack system to the State in comparison to the opportunity costs of financial resources that could be used for other purposes of the agency, and the potential loss of revenue if the Tamarack facility was a source of revenue.*
3. *If the West Virginia Parkways, Economic Development and Tourism Authority determines that changes to the Tamarack system cannot be made to make it a profitable endeavor, the agency should consider alternative uses for the Tamarack facility that may be more beneficial to the State than its current use.*
4. *The West Virginia Parkways, Economic Development and Tourism Authority should report to the Joint Committee on Government Operations during the May 2007 interim meetings on its options to make Tamarack a profitable*

project or alternative purposes for Tamarack that would be in the best interest of the State.

Issue 2

Some EDT Activities Are Questionable and Do Not Follow the Spirit of the Enabling Legislation.

Issue Summary

Since 1990, the Parkways Authority has invested in a total of 181 projects and spent more than \$36 million. The Legislative Auditor determined 156 of those projects, totaling a little over \$4.3 million, to be outside of the legislative intent.

The Parkways Authority is authorized to construct and operate economic development and tourism projects. The Legislative Auditor reviewed the Parkways Authority's EDT activities from 1990 to the present and found that the Parkways Authority frequently donates funding to events which it classifies as tourism promotion or economic development. These EDT projects include donations to fairs, festivals, local governments, non profit organizations, institutions, clubs, and other events. Not only has the Parkways Authority made charitable contributions with EDT funds but it has also made investments in private businesses through preferred stock purchases and limited partnerships as a form of economic development. Since 1990, the Parkways Authority has invested in a total of 181 projects and spent more than \$36 million. The Legislative Auditor determined 156 of those projects, totaling a little over \$4.3 million, to be outside of the legislative intent. A majority of these questionable projects provide no financial return to the Parkways Authority and have made funds less available for important agency needs.

The Majority of Questionable Projects Are Donations

Of the 156 projects that the Legislative Auditor found to be questionable, 150 of them are donations. The project funding amounts range from \$125 to \$52,650 and total \$1,019,915.

From time to time the Parkways Authority has acted within the enabling legislation and provided funds to assist state parks with projects such as restroom and facility maintenance, repairing and building picnic shelters, and providing labor and materials to enhance the restoration of a lake. However, after reviewing the Parkways Authority's EDT activities, the Legislative Auditor determined that a large number of the projects do not fit the legislative intent. Of the 156 projects that the Legislative Auditor found to be questionable, 150 of them are donations. The project funding amounts range from \$125 to \$52,650 and total \$1,019,915. Although the donations provide some promotion of economic development and tourism to local communities, the donations fall outside of the enabling legislation of the Parkways Authority.

According to the Parkways Authority's procedural rule, 184-1-2.3, "*Requests for direct grants and loan for economic development and tourism projects are outside of the scope of the Authority's delegated*

powers and must be rejected.” Because the rule indicates that the Parkways Authority does not disperse funds in the form of grants or loans, the Legislative Auditor concluded that the tourism promotion/project contributions are donations that fund the operation cost of an event or activity. In response, the Parkways Authority claims,

It is the Legislative Auditor’s position that these donations are dispersed strictly to sponsor or fund the event and that the Parkways Authority is not purchasing advertising because any promotional advertisement that the Parkways Authority receives is a relatively minor indirect benefit of the donation.

Only a limited amount of funding is provided each year for these types of activities as part of the Authority’s advertising expense, under which the Authority sponsors local tourism promotion/project such as a festival and in return is provided with advertising which advertise and cover the festival recognizing the participation of the Authority.

It is the Legislative Auditor’s position that these donations are dispersed strictly to sponsor or fund the event and that the Parkways Authority is not purchasing advertising because any promotional advertisement that the Parkways Authority receives is a relatively minor indirect benefit of the donation. Compared to the early 1990’s, the number of donations dispersed in recent years has been restricted by the availability of funds which is limited due to the ongoing support of Tamarack. However, the fact that the Parkways Authority continues to issue donations at a time when available funds are scarce supports the assertion that if more funds were available, the Parkways Authority would likely distribute more donations. Table 4 below provides a sample of the types of entities that have received financial contributions and the amounts dispersed to each.

Table 4			
Parkways Authority Donations			
Name of Organization/Local Government	Year	Donation	Description
Theater West Virginia	1991	\$1,500	Sponsor/Membership
	1992	\$19,500	Sponsor/Membership (3 payments)
	1992	\$4,000	Motor Coach Tapes
	1993	\$15,000	Sponsor/Membership
	1994	\$1,500	Sponsor/Membership
	1995	\$15,000	Motorize Stage Cabins
	1996	\$3,000	Parts for Stage Cabins
	1998	\$10,000	Traveling Education Program
	1999	\$10,000	Traveling Education Program
	2003	\$3,000	Fund-raising event
City of Beckley	1993	\$12,132	Sidewalks
Beckley Main Street	1995	\$12,000	K-Mart Classic Bicycle Race
City of Princeton	1997	\$2,000	Civil War Re-enactment
City of Princeton	1998	\$150	Rotary Club
Town of Pax	1999	\$5,000	Engineering Report
Hinton Area Community Center	2000	\$1,000	WV Birthday Celebration
Sunrise Museum	2001	\$2,500	Water Show Sponsor
Kiwanis Club of Beckley	2003	\$250	Assist with Supplies to Soldiers
WV State Water Festival	2004	\$1,000	Annual Event - Hinton, WV
The Graham House	2005	\$500	Promote Historical Events
Mountain State Arts & Crafts Fair	2005	\$1,500	Sponsor Art Education Classes
Railroad Centennial Celebration	2006	\$1000	100 th Anniversary of Service
<i>Source: WV Parkways Authority</i>			

Parkways' Investments in Private Businesses Have No Statutory Authority

Of the 156 projects that the Legislative Auditor determined to be outside the intent of the enabling legislation, only six of those projects are not donations. While the number of non-donation projects is smaller than the number of donations, the amount of money invested in these projects is much greater, totaling \$3,335,000. The Parkways Authority invested in private businesses by purchasing preferred stock and forming limited partnerships through which the Parkways Authority gained partial ownership of the company or property. The Legislative Auditor concluded that the non-donation projects fall outside the scope of the enabling legislation and the definition of economic development project. A legal opinion obtained from Legislative Services within the Legislative Auditor's Office asserts that, "There is no statutory authority for investments in stock or ownership of private business" Although these types of projects are less frequent and the most recent of these investments occurred in 2002, the Legislative Auditor is concerned that if more EDT funds were to become available that the philosophy of the Parkways Authority suggests that it would invest the funds in similar projects. Table 5 below shows the six projects, the types of investments made and the investment amounts.

While the number of non-donation projects is smaller than the number of donations, the amount of money invested in these projects is much greater, totaling \$3,335,000.

Table 5		
Parkways Authority Non-Donation Projects		
Project Name	Description of Investment	Amount Invested
CASCI	Limited Partnership - 68% Ownership	\$2,000,000
Lamplighter Industries	Purchased Preferred Stock	\$450,000
Video Graphics	Limited Partnership	\$385,000
Talon Manufacturing	Purchased Preferred Stock	\$250,000
Kingwood Northern	Purchased Preferred Stock	\$125,000
Mountain Music Partners, LLC	17% Ownership	\$125,000
<i>Source: WV Parkways Authority</i>		

The Legislative Intent Suggests That Parkways Authority Own and Oversee EDT Projects.

A legal opinion from Legislative Services indicates that, “*While the code section is not a model of clarity, it is narrowly drawn and implies that it applies to property, structures, facilities and attractions either owned by the Authority or owned by the state.*” In §17-16A-5(c) of the W.Va. Code, the definition of “tourism project” includes 1) any park or tourist facility and attraction, embracing all roads, structures, buildings, etc., together with all property rights, easements and interests which may be acquired by the authority; and 2) any park or tourist facility and attraction owned by the State. The spirit of the legislation is evident from the definition’s requirement that the projects should involve the acquisition of all property rights, easements and interest for the construction or operation of the tourism project. In addition, the incidental powers given to the Parkways Authority support this claim. Those powers include the following: §17-16A-7 which consents to the use of all state lands for the construction or operation of any project and §17-16A-8 which specifically authorizes the Parkways Authority to purchase land, property rights, etc. for the construction or operation of any project. The assertion is further sustained by the legal opinion which states, “*The definition provides no wording that can reasonably be interpreted to mean grants for the promotion of an event or the support of private or local governmental institutions such as libraries and colleges.*”

The spirit of the legislation is evident from the definition’s requirement that the projects should involve the acquisition of all property rights, easements and interest for the construction or operation of the tourism project.

The assertion is further sustained by the legal opinion which states, “The definition provides no wording that can reasonably be interpreted to mean grants for the promotion of an event or the support of private or local governmental institutions such as libraries and colleges.”

The definition of tourism project specifies two types of projects: 1) parks; and 2) tourist facilities and attractions. The legislative intent as to the types of projects is further clarified in §17-16A-5(h) by the definition of “*tourist attraction and facility,*” which reads as follows:

Cabins, lodges, recreational facilities, restaurants, and other revenue producing facilities, any land or water site and any information center, visitors’ center or rest stop which the Parkways Authority determines may improve, enhance or contribute to the development of the tourism industry in the state. (emphasis added)

Although the code does not specifically state that financial donations are prohibited, it does point out that the facilities are to be “revenue producing,” implying a rate of return for the Parkways Authority. Further support is found in §17-16A-13, which permits the Parkways Authority “. . . to fix, revise, charge and collect rents, fees, charges and other revenues . . . for the use of each economic development project or tourism project.”

The code's definition of "economic development project" is similar to the definition of tourism project in that it also provides for the Parkways Authority's development of a narrow range of sites, structures, facilities and equipment that the Parkways Authority may acquire, create, develop, construct, reconstruct, improve or repair. According to the legal opinion,

The Legislative Auditor finds that there is no wording in the statute that allows for the acquisition of or investment in private businesses.

*Specifically permitting the acquisition of all property rights, easements and interests related to the economic development project again seems to indicate that the statute contemplates **ownership by the Parkways Authority or the state**, rather than the development of privately owned projects. (emphasis added)*

The types of economic development projects intended are described as, ". . . to promote the agricultural, economic or industrial development of the state. . . ." The Legislative Auditor finds that there is no wording in the statute that allows for the acquisition of or investment in private businesses. According to the legal analysis, which supports the finding of the Legislative Auditor, "*The statutory language providing for economic development projects does not mention the acquisition of ownership in private business ventures as a way of participating in an economic development project*"

Broad Interpretation of Enabling Legislation Outside of the Legislative Intent.

Beginning in June 1989, the Parkways Authority operated with a newly expanded mission that included economic development and tourism. Before the Parkways Authority promulgated a procedural rule in 1991, it requested from the Office of the Attorney General an opinion concerning the types of activities which may be undertaken by the Parkways Authority when exercising its powers to pursue economic development projects and tourism projects. The Attorney General declined to issue an opinion for two reasons: 1) the request was from an attorney and not the head of the Parkways Authority; and 2) the request was hypothetical in nature. The Parkways Authority proceeded without an Attorney General's legal opinion to issue a procedural rule, Title 184 Series 1, which established guidelines for entities to request funding for EDT projects and the process used by the Parkways Authority's EDT committee and the board for the selection of EDT projects. It is important to note that because procedural

rules have not passed the legislative process, they do not have “the force of law” as specified in §29A-1-2(d).

According to the legal opinion from Legislative Services, the Parkways Authority’s procedural rule is indicative of the agency’s broad interpretation of its enabling legislation. When asked to explain how the statutory authority allows the Parkways Authority to donate or provide funding for various economic development and tourism projects, the Parkways Authority’s reply confirmed the legal opinion’s contention that the Parkways Authority had broadly interpreted the enabling legislation. Following is an excerpt from the Parkways Authority’s letter to the Legislative Auditor.

According to the legal opinion from Legislative Services, the Parkways Authority’s procedural rule is indicative of the agency’s broad interpretation of its enabling legislation.

*Further, West Virginia Code §17-16A-5 gives very **broad** definitions of the terms “projects,” “tourism projects,” “economic development” and “tourist facility and attraction.” These definitions have been viewed by the Parkways Authority as providing a very **broad** spectrum of endeavors it might undertake in carrying out its legislatively mandated mission of promoting and enhancing the tourism industry and developing and improving tourist facilities and attractions in the state, as well as the promotion of the agricultural, economic, and industrial development of the state. (emphasis added)*

In 1998, the Legislature mandated the Parkways Authority to pay an annual financial contribution to the Hatfield McCoy Regional Recreational Authority (HMRRA) which the Parkways Authority categorizes as an economic development project. The Parkways Authority contends that because the Legislature did not amend any other provisions of the enabling legislation that the mandate confirms its authority to provide funding for similar economic development and tourism projects. Legislative Service’s legal analysis found no basis for the Parkways Authority’s assertion. Moreover, the Parkways Authority made donations to various entities long before the HMRRA was mandated by the Legislature, making the legislative mandate irrelevant to the issue at hand.

Conclusion

Since the Parkways Authority was given the mission and authority to create and operate economic development and tourism projects, it has spent more than \$4 million on projects that the Legislative Auditor

determined to be outside legislative intent. These questionable projects include donations to various entities and investments in private businesses. The legal analysis from Legislative Services finds that while the statute is not explicit, it is highly suggestive as to the types of projects that the Legislature intended for the Parkways Authority to undertake. The Parkways Authority acknowledges that it interprets the project definitions as broad, allowing for a wide spectrum of endeavors. The Legislative Auditor is concerned that this broad interpretation of the statute has resulted in investments in unauthorized projects that precludes EDT funds from being spent on valid projects that could provide a rate of return to the Parkways Authority and replenish funds for future EDT projects and to meet other important needs such as road construction and repair.

Recommendation

5. *The Parkways Authority should discontinue investing in projects that do not fall within the enabling legislation.*

6. *If the Legislature approves of the Parkways Authority's economic development and tourism promotion activities, it should consider amending the agency's enabling statute to clearly authorize these activities.*

Appendix A: Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

December 21, 2006

Mr. Gregory C. Barr, General Manager
West Virginia Parkways Authority
P.O. Box 1469
Charleston, WV 25325-1469

Dear Mr. Barr:

This is to transmit a draft copy of the Full Performance Evaluation of the Parkways Authority. This report is scheduled to be presented during the January 7th -9th interim meeting of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting on December 28th or 29th. Please notify us to schedule an exact time. In addition, we need your written response by noon on January 2, 2007 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday January 4th, 2007 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

Enclosure

_____ *Joint Committee on Government and Finance* _____

Appendix B: Agency Response

JOE MANCHIN III
Governor



WEST VIRGINIA PARKWAYS
ECONOMIC DEVELOPMENT AND TOURISM
AUTHORITY

P.O. BOX 1469
CHARLESTON, WEST VIRGINIA 25325-1469
TELEPHONE: 304/926-1900
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January 4, 2007

RECEIVED
JAN 05 2007

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Mr. John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Review Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Dear Mr. Sylvia:

Enclosed is the West Virginia Parkways Economic Development and Tourism Authority's written response to your Full Performance Evaluation which we received by letter dated December 21, 2006. Included with our response is an Executive Summary highlighting those critical areas that we believe should be given due consideration.

To confirm, myself and other Parkways Authority and Tamarack staff members will be in attendance to discuss these audit findings during the Joint Committee on Government Operations meeting on Monday, January 8, 2007 at 9:00 A.M.

Sincerely,

A handwritten signature in black ink that reads "Gregory C. Barr".

Gregory C. Barr
General Manager

GCB/tgn

Attachments

Introduction and Executive Summary

The Parkways Authority has not performed any illegal acts or improperly disbursed any funds or deviated from the authorization of its enabling legislation with regard to any of its Economic Development or Tourism Projects or ventures.

West Virginia Code §17-16A-6(a) authorizes the Parkways Authority to acquire, hold, lease and dispose of real and personal property in the exercise of its powers and the performance of its duties; to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers; to make and enter into all contracts, agreements or arrangements with any agency, department, division, board, bureau, commission, authority or other governmental unit.

Tourism Promotion Projects

Tourism promotion is also contemplated by the statute and authorized under the enabling legislation. Funding assistance for tourism promotion is never considered by the Authority to be a donation, but is deemed by the Authority to be appropriate funding assistance that contributes to the development of the tourism industry in West Virginia by: (1) providing public recognition of the assistance of Tamarack and the Authority through the use of in kind services such as listing the names of sponsors on shopping bags, websites, hand-out programs, and the like, providing thousands of hand-out items recognizing Tamarack and the Parkways Authority; and (2) further enhancing the success of a number of fairs and festivals considered to be tourism related projects that benefit the cultural and historical heritage of West Virginia. These types of tourism promotion projects are in many cases similar to the same fairs and festivals the State of West Virginia assists through state budget items that in 2006 amounted to more than \$2.3 million dollars of sponsorship.

Economic Development and Tourism Projects

The Parkways Authority is specifically authorized to own and operate Parkways projects and Economic Development and Tourism projects. If the Authority can own an entire project or ventures, it clearly follows that it can own a portion of a venture especially under circumstances where it does not have sufficient funds to own the entire venture. The Authority has participated in ventures with Jobs Investment Trust, West Virginia Economic Development Authority, Charleston Urban Renewal Authority, Charleston Area Alliance (formerly BIDCO), as well as the West Virginia Public Broadcasting Foundation and the West Virginia Educational Broadcasting Authority.

All of these projects and ventures are funded, built and maintained only with non-toll revenues, more than 80% of which are generated from out-of-state and commercial patrons that travel the West Virginia Turnpike. Less than 20% of the cost of Economic Development, Tourism and Tourism Promotion Projects and ventures are at any time borne by West Virginians. Because the source of funding does not include any money

1

from the state budget, West Virginia tax payers are not contributing through tax dollars to any of these projects.

Measuring the success of the Parkways Economic Development and Tourism mission by profits and losses is an inappropriate and unfair measure of its success.

In a December 1995 report, PERD recognized that not all investments for Economic Development and Tourism Projects target job creation. Certain projects might be designed for the purpose of cultural enrichment or enhancement or job retention. At that time, the Parkways Authority had created 538 jobs at the cost of \$8,496.00 per job. The 1995 PERD report found this ratio to be unremarkable.

Presently, the Parkways Authority has created at least 1,000 jobs with CASCI; Telespectrum, Talon and Tamarack which amounts to \$20 million in annual payroll. These are jobs that would have been lost if not for the Authority's involvement, and can still be lost if the Parkways Authority's involvement is terminated prematurely.

The Parkways Authority has always sought EDT projects, ventures and investments that provide a financial return. Some returns may be more indirect than others. Some returns may take longer than others. An example is the CASCI investment, the Blue Cross Blue Shield building on the Boulevard in Charleston that employs over 600 people. In addition to receiving back its original \$2,000,000.00 investment, the Parkways Authority stands to benefit, upon the sale of the venture, by an additional amount which exceeds \$4,000,000.00.

Tamarack's Contribution to the State of West Virginia

Tamarack has sold over \$70 million in crafts and foods since opening in 1996. It has remitted over \$3,700,000.00 in sales tax to the state's general revenue fund. It draws over 500,000 visitors a year and is universally recognized in the state and region as a potent force in the tourism industry providing outstanding enhancement of the image of the State of West Virginia, creating jobs at the facility and jobs for artisans statewide that impact every county of the state. **Its sales have increased to more \$7,000,000.00 per year and continue to increase with new programs such as e-commerce.**

Over \$58,000,000.00 of goods and services have been paid for from Tamarack revenue with every county of the state benefiting. Using a very reasonable multiplier of 3 to measure secondary and other economic returns on this same investment generates a return on investment of over \$200 million, all based on the \$30,000,000.00 of subsidy by the Parkways Authority over a period of ten (10) years. **Tamarack has returned a \$170 million benefit for the State of West Virginia in its first ten (10) years, from that aspect alone.**

Economic Development Assistance

The minimal economic development assistance funding for Mountain Music Partners is also in participation with West Virginia Jobs Investment Trust. Both JIT and Parkways provided the same level of funding of \$125,000.00 each. **This funding allowed West Virginia Public Broadcasting's signature product, Mountain Stage, to go national with a taped television product for the first time.** The License Agreement, issued by the West Virginia Public Broadcasting Foundation and the Educational Broadcasting Authority, allows both entities to benefit financially from the syndication and rebroadcast of the taped Mountain Stage sessions. Unique to the project are the concessions made to the Parkways Authority for its participation. Such things as re-editing the opening shots of the series to include exterior shots of Tamarack in the state-wide montage; a visit by the Master of Ceremonies, Larry Groce for an introductory piece and some wrap around for the host segments to be done on location at Tamarack every year; and, the "Best of Mountain State" film clip to be provided to Tamarack for continuous viewing in the theater as well as a short "Welcome to West Virginia" videotape hosted by Larry Groce and specifically designed for such use. **This type of nationwide publicity could not be purchased by Parkways for any amount of money.**

Consequences of Redistribution of Non-Toll Revenue

To prematurely terminate the funding assistance to Tamarack from the Parkways Authority would be disastrous for the future of Tamarack and the art and craft industry it seeks to promote and assist.

The redistribution of those non-toll revenue funds into toll road operations would have no significant impact on the much larger amount of funds which the Parkways Authority needs for highway improvement projects. On the other hand, these EDT funds make a highly significant difference to the one thousand artisans, the 500,000 yearly visitors at Tamarack, the recipients of project funds for such infrastructure projects as acquisition of the Mount Olive Prison site, construction of a water line at Pipestem State Park, the general water main extension of the Town of Athens waterline to serve the Parkways Authority's Bluestone Service Area, Telespectrum, CASCI, Mountain Music Partners and others.

It is highly unlikely that the success of Jobs Investments Trust (JIT), WVEDA, Charleston Urban Renewal Authority, Charleston Area Alliance and others with whom the Parkways Authority has participated are judged solely on the profit and loss of the projects and ventures to which they provide funding assistance.

Parkways Performs Due Diligence in Reviewing Project Requests

The Parkways Authority always exercises due diligence in reviewing project requests and credit worthiness is one of the factors considered; however, there can be no absolute assurance from the Parkways or any other state agency that all of the investments will be profitable ventures.

Every economic development and tourism project or venture, from which the Parkways Authority receives an application for assistance, is unique. As a result, the Parkways Authority must be able to exercise some degree of flexibility in that area to deal with the structure and requirements of each project.

To criticize Tamarack for not yet operating at a profitable level without subsidy by the Parkways Authority is not the proper measure of the success of the project. Further, to say that in 2015 Tamarack will still require the same level of subsidy from the Parkways Authority as it does now ignores all of the contrary financial data, factors and indications to date.

WV Parkways Authority Investments

<i>Project Name</i>	<i>Amount Funded</i>	<i>Date of Investment</i>	<i>Type of Investment</i>	<i>Number of Employees</i>	<i>Dollars Invested Per Employee</i>	<i>Return to Parkways</i>
CASCI	\$2,000,000	3-4-1992	Limited Partnership *	600	\$3,333	\$100,000/yr + 68% equity = \$1,475,000 thru 12/06
Telespectrum	\$914,034	2-22-1995	Lease Purchase	200	\$4,570	\$1,202,000 + jobs
Talon	\$250,000	3-15-1993	Preferred Stock	90	\$2,778	Equity interest + jobs
Buncher Rail Car	\$200,000	1-12-1994	Secured Investment (Assignment of lease proceeds)	17	\$11,764	\$200,000 + jobs
Kingwood Northern	\$125,000	1-1-1994	Preferred Stock	Tourism promotion		\$147,344
Mountain Music Partners	\$125,000	9-17-2002	LLC *	Cultural heritage tourism promo.		17% equity interest
	<u>\$3,614,034</u>			907 x \$20,000 = \$18,140,000 payroll/year	\$3,985	\$3,024,344 84% Repaid

**The CASCI Limited Partnership and Mountain Music Partners Limited Liability Company were formed with the Parkways Authority being part of the initial investment.*

JOE MANCHIN III
Governor



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January 4, 2007

Mr. John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Review Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Dear Mr. Sylvia:

As suggested by your correspondence dated December 21, 2006, the Parkways Authority provides the following written response to your Full Performance Evaluation.

It is important that we offer some historical background that gives perspective to the vision shared by executive and legislative leaders that led to the creation of the West Virginia Parkways, Economic Development and Tourism Authority. There is also a discussion of the benefits of Tamarack and the Economic Development and Tourism mission of the Parkways Authority.

1989 – Turnpike Bond Debt Must Be Paid

In 1989, the State of West Virginia was faced with a substantial financial problem: the 1952 and 1954 Turnpike Revenue bonds were coming due and Turnpike reserves were approximately \$25 million short of the amounts needed to pay back the debt. The State was left with three choices for solving this dilemma. The first option, that was obviously ruled out due to the negative impact on the State's credit rating, was to let the bonds go into default. Secondly, the State could fund the payment from general or highway revenues. This would allow tolls to be removed with the State assuming the cost of the maintenance of the 88 miles of interstate highway. While the removal of tolls would have been appealing to many local residents, the State could not afford the cost of the \$25 million in bonds plus the more than \$25 million per year needed to construct, reconstruct and maintain the highway.

WEST VIRGINIA PARKWAYS ECONOMIC DEVELOPMENT AND TOURISM AUTHORITY

New Bonds Issued

The third and chosen option was to refinance the existing bond debt with a new bond issue. Traffic studies were commissioned which confirmed that bonds could be issued that could refinance the remaining Turnpike Revenue bonds, fund needed highway projects on the Turnpike, remove the local “side” tolls and pay back the State for its share of the Federal matching funds for the upgrade of the Turnpike to four lanes. Tolls collected would maintain the highway removing that burden from the State Road Fund. Over 150 jobs with benefits in the toll division would be saved. And most of the tolls, estimated to be 80% or more, would be collected from either commercial vehicles or out-of-state travelers. With the “Special Highway Fund” created from the reimbursement of approximately \$83 million of State funds used on the Turnpike, the State was able to build the Chelyan Bridge, complete the upgrade of U.S. Route 19, and complete numerous other needed highway projects within 75 miles of the Turnpike. \$143 million of bonds would be issued with only toll revenues from the Turnpike pledged for the debt service of these bonds.

Economic Development and Tourism Mandate

Restaurant and service station revenues (“Concession Revenues”) were not pledged to the payment of the bonds and with Federal Highways approval, the State’s visionary leaders saw fit to utilize these concession revenues in a unique manner. It is important to note that **these concession revenues are generated from the same 80% out-of-state and commercial patrons that travel the Turnpike.** For years, West Virginia had been competing with surrounding states that had been offering various concessions and incentives to attract private business. Due to very limited financial resources, our State’s leaders were finding it to be very difficult to compete in this environment. In 1989, the Governor and Legislature agreed that this concession revenue generated by Turnpike operations would be valuable when used by the Parkways Authority for economic development and tourism activities. Thus, the West Virginia Turnpike Commission became the West Virginia Parkways, Economic Development and Tourism Authority and its economic development mission was born.

Economic Development and Tourism Projects: 1990-2006

During the first three to five years, the Authority’s economic development activities consisted of participating in State sanctioned projects introduced to the Authority by various economic development leaders including Jobs Investment Trust (JIT), BIDCO and the West Virginia Economic Development Authority (WVEDA). Generally, once most of the details of the commitments had been negotiated by the State and the private business entity, the Authority would be asked to participate with its financial resources. The Authority had established procedural rules prohibiting loans or grants, accordingly, the principals involved would negotiate agreements calling for the Authority to participate with non-traditional methods such as preferred stock with a mandatory redemption feature or limited partnership interests. The Authority usually invested in these ventures with the intent of receiving a return of equity plus earnings.

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The Board's EDT Committee relied upon the expertise of JIT and WVEDA authorities to approve investments in these projects as negotiated by the other State Agencies. In retrospect, two of the initial ventures did incur a financial loss to the Authority. However, at least three of the major ventures are still in business and have certainly contributed returns to the State far in excess of the amounts invested in those ventures and even the amounts lost on the unsuccessful ventures. The three ventures are the PELP Partnership with Charleston Area Alliance (CASCI) which has secured at least 600 jobs in the Charleston area since 1992, the Telespectrum venture which has secured at least 125 jobs in the Beckley area since 1994 with a new commitment to provide at least 200 jobs through July 2011 and the Talon venture which has secured approximately 90 jobs as of 2006 in the Herndon area of Wyoming County since the initial investment in 1993. Additionally, both the PELP and Telespectrum ventures have been successful investments with positive income returns to the Authority. The Talon venture has not yet had a direct payback to the Authority, but the Authority still maintains its equity interest.

Capital Area Services Co., Inc. ("CASCI"), located at 200 Kanawha Boulevard, East in Charleston, WV is a for-profit subsidiary of the non-profit Blue Cross Blue Shield of the National Capital Area in Washington, D.C. (now Blue Cross Blue Shield of Maryland). CASCI processes claims for federal employees' insurance plans and some private companies. It is one of Charleston's largest employers with over 600 employees in the Kanawha Valley. These are jobs with benefits and this business can most definitely be deemed a successful economic development venture having been in operation for 15 years with longer term commitments in process. The Parkways Authority owns a 68% equity interest in the partnership that it formed and that owns the building and land that is leased to CASCI.

The Parkways Authority has also invested in Mountain Music Partners, which has allowed West Virginia Public Broadcasting's signature product - Mountain Stage - to be rebroadcast nationally with a television product for the first time. This is clearly a focus of resources on both economic development and tourism promotion. Mountain Stage is truly an ambassador for West Virginia and we are proud to support this talented group with their important mission. Parkways obviously anticipates a return of equity and a return on equity from this project.

Tamarack Economic Development and Tourism Project: 1996-2007

After the initial period of activity from 1990 to 1995, the Authority's vision turned toward developing its own economic development project which would leverage the EDT revenues into a marquis project and showplace for the State. Various ideas were introduced to the Board until the idea of creating a first-of-its-kind world class facility to sell West Virginia made arts, crafts and food products to support the emerging arts and craft cottage industry in the State took shape. This was the concept of Tamarack, which for the past 10 years has been a showpiece for the State and an economic catalyst. Many other states currently have projects in the works or under consideration that are intended to emulate Tamarack.

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Positive Impact of Tamarack

Tamarack is not just an economic development project but it is a tourism project and a tourism promotion project as well. It has averaged **over 500,000 visitors per year** which represents **a potent force in the tourism industry of West Virginia**. Just recently the **5 millionth visitor** walked through the doors of the Tamarack facility. The Tamarack project provides outstanding enhancement of the image of the State, creates jobs at the facility and also creates jobs and promotes the products of artisans throughout every county of the State. **Tamarack reflects the heart and soul of West Virginia and provides an opportunity for residents to cultivate their craft, and for visitors to enjoy an unprecedented cultural experience. The name Tamarack has become synonymous with high quality craft. West Virginia and the Parkways Authority must continue to endorse the creative economy and identify ways to stimulate its growth.**

While the Authority has not commissioned studies to specifically quantify Tamarack's impact, anecdotal evidence suggests the impact is substantial. Businesses have been created to compete against Tamarack. Products introduced at Tamarack have been modified and expanded allowing artists and craftsmen to leverage their Tamarack experience into full-time business operations. While a substantial amount of arts and crafts are sold each year at Tamarack, which can be quantified, Tamarack encourages a referral system allowing the artists the ability to negotiate directly with customers bypassing the Tamarack system. Tamarack has not sought to quantify this impact. Tamarack itself directly employs 149 people that includes a full time staff of 85 employees in the Beckley area, the benefit of which accrues to the State and not to the Parkways Authority. **The annual sales of Tamarack exceeded \$7.3 million last fiscal year and are projected to be \$7.8 million this year.**

Sales at Tamarack are increasing and in November 2006, a new e-commerce web site went on-line offering Tamarack products for sale over the internet. By 2015 when the bonds are paid off, the increasing sales and gross profits are expected to provide a net profit due to the economies of scale being realized by a leveling off of operating expenses as a percent of increasing sales. It is important to remember that greater than 80 percent of the costs of operating the Tamarack facility do not come from West Virginians but from the out of state and commercial patrons traveling the West Virginia Turnpike and visiting the travel plazas as well as Tamarack. It is also important to recognize that no State budget dollars are invested in Tamarack. When the overall benefits from job creation, the creation of a tourism destination, enhancement of image and expansion of the cottage industry are balanced against zero cost to the State of West Virginia, the positive impacts are even greater.

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Jobs Creation and Positive Impact on General Revenue Fund of West Virginia

Obviously, Parkways disputes any assertion that the economic development and tourism activities of the Parkways Authority have created a financial burden that hinders the agency's overall performance. On the contrary, the projects discussed above have done exactly what the framers of the enabling legislation intended. The projects utilized a limited amount of discretionary Parkways Authority funds to create and sustain more than 1,000 jobs that have a direct and positive impact on the economy and the general revenue fund of the State of West Virginia through income and payroll taxes of the employees, sales taxes, taxes on the businesses and the multiplier effect of those wages as that money is spent within the State. **The impact of the 1,000 jobs with a conservative annual salary of \$20,000 represents a \$20 million annual payroll. Tamarack has also generated close to \$4 million in sales taxes for the State's General Fund.**

Prudent Selection of Projects With Financial Return

Historically, the Authority has been extremely prudent with its limited economic development and tourism resources and has always sought projects and ventures that provide a financial return or some type of other beneficial return to the Authority. Further, the Authority has sought to maintain the highest level of security it can obtain in any of its investments including letters of credit and owners' personal guarantees where possible. However, the nature of an economic development mission is that some of the projects will ultimately not be successful. Additionally, the structure of a project such as Tamarack, may limit the financial return to the Authority. But it must be stressed that the success of Tamarack cannot be judged only by the financial return it has directly to the Authority. The revenues Tamarack operations generate for the State's general fund, the artisans and the state's economy must also be considered as well as the significant boost it provides to the State's image and tourism markets.

Now that years of rising costs for highway and bridge maintenance and deteriorating roadways have culminated in the need, after much delay, for a toll rate increase, some critics may point to the Authority's Economic Development projects as a diversion of funds needed for the highway. First, this criticism does not consider the replacement to the State's general revenue created by **jobs that would have been lost but for the Authority's involvement.** Second, even if this impact on the State could be ignored, some critics contend this revenue would replace the need for a toll increase. However, based on studies the Authority has received, the amount required to fund needed highway improvement and maintenance projects approaches \$30 million per year. **The funds designated for the EDT function do make a significant difference each year to over 1,000 artisans, and 500,000 visitors at Tamarack and to the recipients of funds for economic development projects such as Mount Olive Prison, Pipestem State Park, Athens Water Line, Telespectrum, CASCI, etc.**

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Intangible Benefits of Tamarack

The Parkways Authority, and it believes the average West Virginian, has been extremely pleased with the success of the Tamarack system. The results are obvious even without commissioning an expensive study. Tamarack provides year round employment for 85 full time employees, it also offers more than 60 part-time jobs in busy seasons, the State's economy is positively impacted through arts and crafts purchases in excess of \$2.5 million annually, and millions have been collected and remitted in sales taxes. Additionally, the Authority has heard testimony over the years from many artisans indicating that their lives have been enriched by Tamarack. Finally, the Authority has witnessed the extended "family" of artisans and craftsmen banding together under the umbrella of the Tamarack Foundation to assist fellow artisans in need through the Foundation's Artisan Relief Fund or assisting future artisans through the Foundation's training programs.

Legal Interpretations of Enabling Legislation

From the beginning, the Authority sought interpretations and legal opinions related to the economic development and tourism mission delegated in the enabling legislation to be sure the proper intent and spirit was understood. With no clarification forthcoming from the Attorney General's office, the Authority sought the legal advice of the principal drafters of the enabling legislation who assisted with their interpretation of intent and authority granted by the statute which enabled the Parkways to formulate certain procedural rules.

The projects that were characterized as "donations" in the audit report are considered tourism promotion by the Parkways Authority. They were not necessarily designed to generate revenue for the Authority, but are deemed by the Authority to be appropriate funding assistance that contributes to the development of the tourism industry in the State of West Virginia in at least two ways: (1) providing public recognition for the assistance of Tamarack and the Authority by way of in-kind services such as prominently displaying the Authority's name and seal and "Tamarack" on thousands of shopping bags, websites, and programs distributed by fairs and festivals; and (2) enhancing by sponsorship a number of tourism related projects that benefit the cultural and historical heritage of the State of West Virginia that have no direct connection to Tamarack or the Authority. The Authority has received more requests for tourism promotion than it can accommodate and, accordingly, it limits the amount and the eligibility for assistance. All of this tourism promotion assistance requires the return of public benefits and/or advertising and promotional benefits to Tamarack and the Authority.

Sincerely,



Gregory C. Barr
General Manager

