



THE SENATE COMMITTEE ON FINANCE

Fiscal Year 2024
General Revenue Collections

January 2024

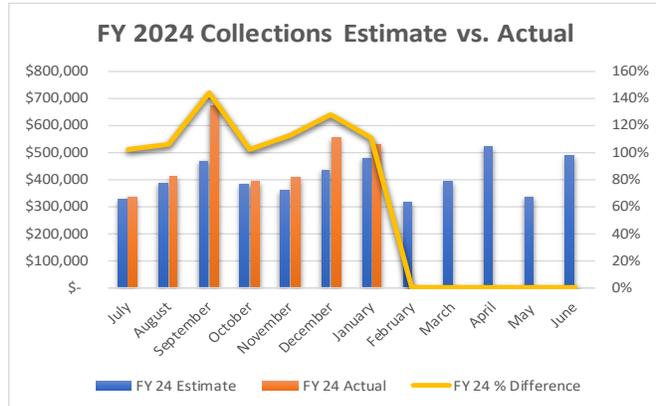
Prepared by: Chris DeWitte, Budget Analyst



General Revenue Year to Date Snapshot

	FY 24			
	Estimate	Actual	Difference	% Difference
July	\$ 327,271	\$ 334,994	\$ 7,723	102%
August	\$ 387,965	\$ 410,786	\$ 22,821	106%
September	\$ 467,910	\$ 672,144	\$ 204,234	144%
October	\$ 383,431	\$ 390,836	\$ 7,405	102%
November	\$ 360,735	\$ 404,786	\$ 44,051	112%
December	\$ 433,090	\$ 553,249	\$ 120,159	128%
January	\$ 478,695	\$ 530,977	\$ 52,282	111%
February	\$ 313,975	\$ -	\$ (313,975)	0%
March	\$ 392,575	\$ -	\$ (392,575)	0%
April	\$ 520,141	\$ -	\$ (520,141)	0%
May	\$ 333,695	\$ -	\$ (333,695)	0%
June	\$ 484,517	\$ -	\$ (484,517)	0%
Totals	\$ 4,884,000	\$ 3,297,772	\$ (1,586,228)	68%

* all numbers in thousands



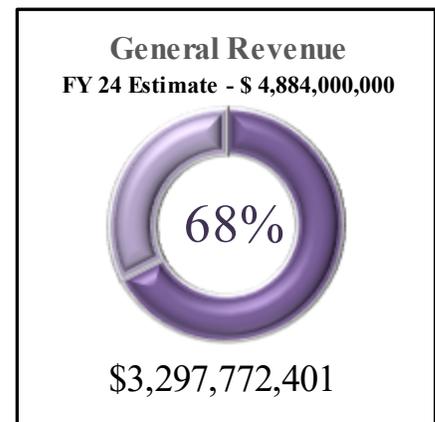
General Revenue

General Revenue collections for January totaled \$530,977,602, **exceeding** the monthly estimate of \$478,695,000 by \$52,282,602. Total year-to-date General Revenue collections are \$3,297,772,401.

Fiscal Year 2024 YTD Estimate
\$2,839,097,000

Fiscal Year 2024 YTD Collections
\$3,297,772,401

Fiscal Year 2024 YTD Performance
Exceeding estimates by \$458,675,401



As of the end of January, the state has collected 68% of its estimated yearly revenue of \$4,884,000,000.

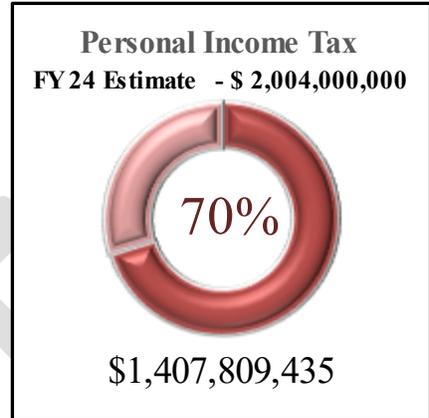
Personal Income Tax

Personal Income Tax (PIT) collections for January totaled \$233,459,905, **below** the monthly estimate of \$237,000,000 by \$3,540,095. Total year to date Personal Income Tax collections are \$1,407,809,435.

Fiscal Year 2024 PIT YTD Estimate
\$1,209,900,000

Fiscal Year 2024 PIT YTD Collections
\$1,407,809,435

Fiscal Year 2024 PIT YTD Performance
Exceeding estimates by \$197,909,435



As of the end of January the state has collected 70% of its total estimated PIT yearly collections of \$2,004,000,000.

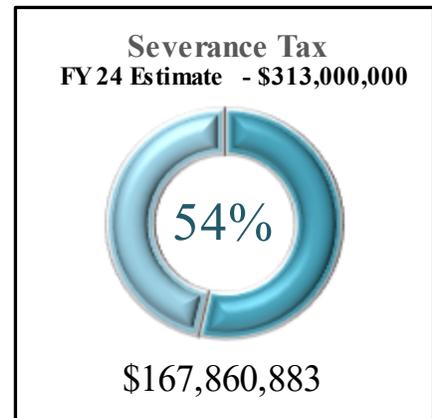
Severance Tax

Severance tax collections for January totaled \$55,750,601, **above** the monthly estimate of \$31,000,000 by \$24,750,601. Total year to date Severance Tax collections are \$167,860,883.

Fiscal Year 2024 YTD Severance Tax Estimate
\$176,200,000

Fiscal Year 2024 YTD Severance Tax Collections
\$167,860,883

Fiscal Year 2024 Severance Tax YTD Performance
Below estimates by \$8,339,117



As of the end of January the state has collected 54% of its total yearly estimated Severance Tax collections of \$313,000,000.

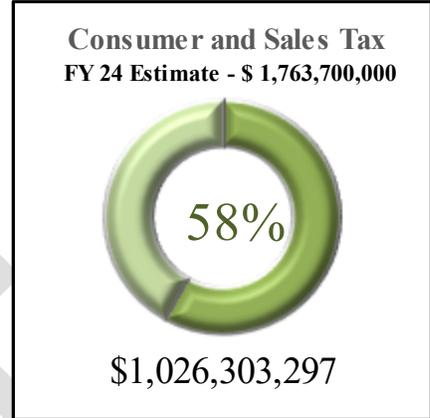
Consumer Sales and Use Tax

Consumer Sales and Use Tax collections for January totaled \$156,188,272, **below** the monthly estimate of \$156,600,000 by \$411,728. Total year to date Consumer Sales and Use tax collections are \$1,026,303,297.

Fiscal Year 2024 YTD Estimate
\$1,005,700,000

Fiscal Year 2024 YTD Collections
\$1,026,303,297

Fiscal Year 2024 YTD Performance
Exceeding estimates by \$20,603,297



As of the end of January the state has collected 58% of its total estimated Consumer Sales and Use tax collections of \$1,763,700,000.

Other Notable Collections

Tobacco Products Tax collections for January were \$13,177,736. These collections were **above** the monthly estimate of \$12,000,000 by \$1,177,736.

Lottery

Total gross lottery collections for December FY 24 were \$113,765,000 This figure is \$19,847,000 **above** the monthly estimate of \$93,918,000. Total gross lottery collections for fiscal year 2024 are \$485,616,000

Net Lottery Revenues

	Dec-24			Fiscal Year		
	Actual	Projected	Difference	Actual	Projected	Difference
Lottery Fund	\$19,237	\$13,938	\$5,299	\$109,914	\$89,252	\$20,662
Excess Lottery Fund	\$27,043	\$23,215	\$3,828	\$157,093	\$139,932	\$17,161
Total	\$46,280	\$37,153	\$9,127	\$267,007	\$229,184	\$37,823

*In Thousands

Please note that Lottery Revenues are distinct from General Revenues and are not included in total General Revenue collections. This section is for informational purposes only.

Road Fund Collections

	December FY 2024			Year to Date		
	Estimate	Actual	Difference	Estimate	Actual	Difference
Gasoline & Motor Carrier	\$ 31,800	\$ 44,011	\$12,211	\$ 223,400	\$ 265,534	\$42,134
Privilege Tax	\$ 20,000	\$ 26,384	\$6,384	\$ 145,500	\$ 182,897	\$37,397
Licenses & Registration	\$ 10,125	\$ 9,365	(\$760)	\$ 73,900	\$ 68,554	(\$5,346)
Highway Litter Control	\$ 92	\$ 38	(\$54)	\$ 860	\$ 825	(\$35)
Miscellaneous	\$ 4,000	\$ 2,283	(\$1,717)	\$ 31,500	\$ 201,458	\$169,958
Federal Reimbursement	\$ 57,500	\$ 25,271	(\$32,229)	\$ 340,300	\$ 482,372	\$142,072
TOTAL	\$ 66,017	\$ 82,081	\$16,064	\$ 475,160	\$ 719,268	\$244,108

(Excluding Federal Reimbursement)

Rainy Day Funds

Revenue Shortfall Reserve Fund (Rainy Day A) balance as of January 31, 2023 is **\$695,854,504**

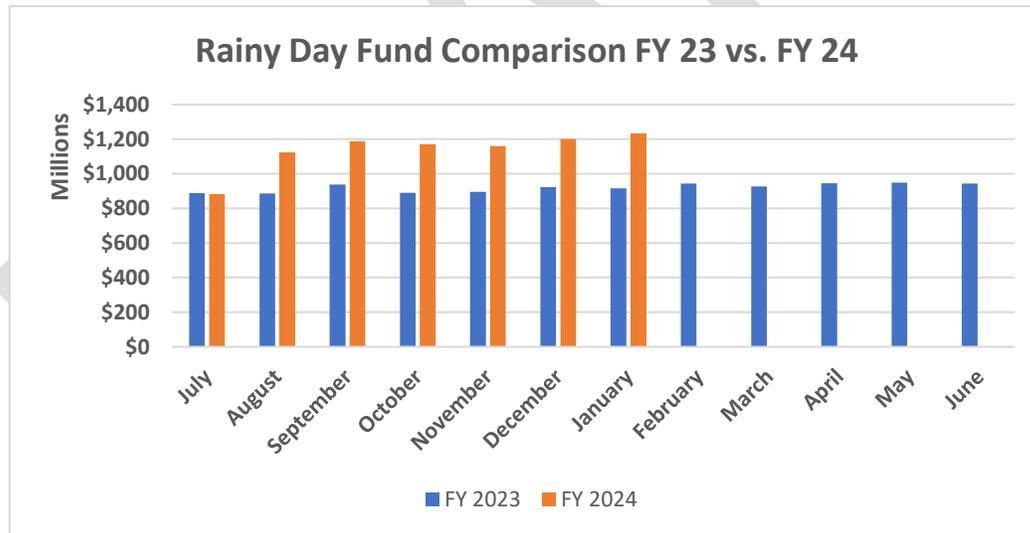
Revenue Shortfall Reserve Fund (Rainy Day A) same time last year: \$423,640,206

Revenue Shortfall Reserve Fund – Part B (Rainy Day B) balance as of January 31, 2023 is **\$538,925,008**

Revenue Shortfall Reserve Fund – Part B (Rainy Day B) balance same time last year: \$492,859,216

Total Balance of Revenue Shortfall Reserve Funds (Funds A+B) as of January 31, 2023: **\$1,234,779,512.**

Total Balance of Revenue Shortfall Reserve Funds (Funds A+B) same time last year: \$916,499,422



Addition copies of this document may be requested by emailing senate.finance@wvsenate.gov

*Numbers in this report are rounded

** These numbers are not final, and are as reported through the WVOasis on February, 2024, these numbers have not been formally released by the Governor's Budget Office.

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SENATE COMMITTEE ON FINANCE

Fiscal Year Comparison (FY 24 vs FY 23)

Prepared by: Chris DeWitte



* All Numbers in Report are Rounded and Expressed in 'Thousands

General Revenue Collections

	January FY 2024			January FY 2023			Year over Year Growth
	Estimate	Collections	Difference	Estimate	Collections	Difference	
Personal Income Tax	237,000	233,459	(3,541)	253,900	305,308	51,408	-24%
Sales and Use Tax	156,600	156,188	(412)	136,300	153,559	17,259	2%
Severance Tax	31,000	55,750	24,750	26,000	90,342	64,342	-38%
Corporate Net Income Tax	8,400	18,822	10,422	4,000	18,239	14,239	3%
Tobacco Tax	12,000	13,177	1,177	12,700	10,730	(1,970)	23%
All Other Taxes*	33,695	53,581	19,886	29,011	45,967	16,956	17%
Totals	478,695	530,977	52,282	461,911	624,145	162,234	-15%

	YTD Fiscal Year 2024			YTD Fiscal Year 2023			Year over Year Growth
	Estimate	Collections	Difference	Estimate	Collections	Difference	
Personal Income Tax	1,209,900	1,407,809	197,909	1,301,190	1,482,797	181,607	-5%
Sales and Use Tax	1,005,700	1,026,303	20,603	864,539	986,221	121,682	4%
Severance Tax	176,200	167,860	(8,340)	133,400	631,194	497,794	-73%
Corporate Net Income Tax	117,600	237,145	119,545	88,000	211,447	123,447	12%
Tobacco Tax	93,500	92,892	(608)	96,900	93,664	(3,236)	-1%
All Other Taxes	236,197	365,763	129,566	197,064	271,045	73,981	35%
Totals	2,839,097	3,297,772	458,675	2,681,093	3,676,368	995,275	-10%

	Fiscal Year 2024			Fiscal Year 2023			Year over Year Growth Total
	Monthly Collections	Cumulative Estimate	Total Collections	Monthly Collections	Cumulative Estimate	Total Collections	
July	\$ 334,994	\$ 327,271	\$ 334,994	\$ 381,098	\$ 288,650	\$ 381,098	-12%
August	\$ 410,786	\$ 715,236	\$ 745,780	\$ 506,998	\$ 653,845	\$ 888,096	-16%
September	\$ 672,144	\$ 1,183,146	\$ 1,417,924	\$ 638,763	\$ 1,099,820	\$ 1,526,859	-7%
October	\$ 390,836	\$ 1,566,577	\$ 1,808,760	\$ 492,594	\$ 1,444,651	\$ 2,019,453	-10%
November	\$ 404,786	\$ 1,927,312	\$ 2,213,546	\$ 480,223	\$ 1,812,206	\$ 2,499,676	-11%
December	\$ 553,249	\$ 2,360,402	\$ 2,766,795	\$ 552,547	\$ 2,219,182	\$ 3,052,223	-9%
January	\$ 530,977	\$ 2,839,097	\$ 3,297,772	\$ 624,145	\$ 2,681,093	\$ 3,676,368	-10%
February		\$ 3,153,072	\$ 3,297,772		\$ 2,976,278	\$ 3,676,368	-10%
March		\$ 3,545,647	\$ 3,297,772		\$ 3,335,073	\$ 3,676,368	-10%
April		\$ 4,065,788	\$ 3,297,772		\$ 3,841,974	\$ 3,676,368	-10%
May		\$ 4,399,483	\$ 3,297,772		\$ 4,181,259	\$ 3,676,368	-10%
June		\$ 4,884,000	\$ 3,297,772		\$ 4,636,024	\$ 3,676,368	-10%

Run Date: 02/01/2024 Run Time: 7:01:36 AM

General Revenue

Rev Gip	Description	Net Prior Month YTD	Current Month Gross Revenue	Current Month Refunds	Current Month Net	Current YTD Revenue
01	BUSINESS & OCCUPATION TAX	51,845,311.86	8,015,835.21	954.52	8,014,880.69	59,860,192.55
02	CONSUMER SALES & USE TAX	870,115,025.26	162,143,302.64	5,955,030.84	156,188,271.8	1,026,303,297.06
03	PERSONAL INCOME TAX	1,174,349,530.81	262,713,620.49	29,253,715.06	233,459,905.43	1,407,809,436.24
04	LIQUOR PROFIT TRANSFERS	15,608,552.33	2,518,675.00	---	2,518,675	18,127,227.33
06	BEER TAX & LICENSES	3,331,247.09	405,496.83	1,050.00	404,446.83	3,735,693.92
07	TOBACCO PRODUCTS TAX	79,714,280.34	13,177,736.75	---	13,177,736.75	92,892,017.09
09	BUSINESS FRANCHISE FEES	380,927.61	177,611.71	1,664.75	175,946.96	556,874.57
10	CHARTER TAX	2,331.55	---	---	0	2,331.55
11	PROPERTY TRANSFER TAX	7,031,146.89	881,948.26	---	881,948.26	7,913,095.15
12	PROPERTY TAX	5,762,699.88	111,801.27	---	111,801.27	5,874,501.15
13	CASH FLOW TRANSFER	---	---	---	---	---
14	INSURANCE TAX	52,042,248.07	78,074.30	1,400.00	76,674.3	52,118,922.37
15	DEPARTMENTAL COLLECTIONS	8,287,868.86	10,948,024.37	---	10,948,024.37	19,235,893.23
16	CORP INC & BUS FRANCHISE	218,323,338.15	19,341,023.99	518,652.79	18,822,371.2	237,145,709.35
17	MISCELLANEOUS	12,701,340.96	203,112.83	---	203,112.83	12,904,453.79
18	MISCELLANEOUS TRANSFERS	697,897.55	108,025.00	---	108,025	805,922.55
19	INTEREST INCOME	114,323,795.35	21,798,853.83	---	21,798,853.83	136,122,649.18
20	VIDEO LOTTERY TRANSFERS	267,539.32	11,877.53	---	11,877.53	279,416.85
21	SEVERANCE TAX	112,110,282.35	56,695,240.49	944,639.70	55,750,600.79	167,860,883.14
23	LIQUOR LICENSE RENEWAL	368,082.14	98,756.75	---	98,756.75	466,838.89
25	HB 102 LOTTERY TRANSFERS	31,541,659.91	6,713,706.83	---	6,713,706.83	38,255,366.74
27	REFUNDABLE CREDIT REIMB LTY	1,026,889.00	---	---	---	1,026,889.00
29	SOFT DRINK TAX	6,962,803.83	1,511,985.78	---	1,511,985.78	8,474,789.61
Total		\$2,766,794,799.11	\$567,654,709.86	\$36,677,107.66	\$530,977,602.20	\$3,297,772,401.31

Consolidated Public Retirement Board (CPRB) Plan Statistics

As of 7/1/2023	Public Employees (PERS)		Teachers' Defined Benefit (TRS)		Teachers' Defined Contribution (TDC)	State Police (Plan A)	State Police (Plan B)	Judges' System (JRS)		Deputy Sheriffs' (DSRS)	Emergency Medical Services (EMSRS)	Municipal Police & Firefighters (MPFRS)	Natural Resources Police Officers (NRPORS)
	Tier I	Tier II	Tier I	Tier II				Tier I	Tier II				
Year Implemented	1961	2015	1941	2015	1991	1935	1994	1949	2005	1998	2008	2010	2021
Active Members	18,805	16,198	20,172	14,897	2,283	1	596	14	110	1,073	775	649	113
Retirees	29,858	9	37,113	0	684	728	155	58	0	556	167	1	10
Covered by Soc. Sec.	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Unknown	Yes
Out of State Soc. Credit	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	No	No
% of Employer Contributions/ARC	9.00%		Per Actuary (NC-UJAL) 20.35% FY2024		7.50%	Per Actuary (NC-UJAL) 19.64% FY 2024	34.0% of Base Pay	Per Actuary (NC-UJAL) \$854,000 FY2024		16.0% + Fees (0.61% fees FY2024)	9.50%	8.50%	12.00%
% of Employee Contributions	4.50%	6.00%	6.00%		4.50%	9.00%	13% of Base Pay	7.00%	8.50%	8.50%	8.50%	8.50%	9.50%
Unfunded Accrued Liability (UAL)	\$207,683,000		\$2,380,478,000		N/A	\$92,982,000	\$57,391,000	(\$156,777,000)	\$44,933,000	(\$4,751,000)	(\$8,828,000)		\$6,594,000
% Funded	97.6%		79.9%		N/A	95.9%	84.8%	228.8%	87.7%	103.9%	133.1%		81.6%
Normal Retirement	Age 60 and 5 years of service OR age 55 and 10 years of service OR age 80	Age 62 and 10 years of service	Age 60 and 5 years of service OR age 55 and 30 years of service and 35 years	Age 62 and 10 years of service	Age 55 and 12 years of service	25 years of service OR age 50 and 20 years OR age 62 and 10 years	Age 50 and 25 years of service OR age 52 and 20 years OR age 62 and 10 years	24 years of service OR age 65 and 16 years	Age 50 and age plus service equals 70 OR age 60 and 5 years or if not working, age 62 and 5 years	Age 50 and age plus service equals 70 OR age 60 and 5 years OR age 62 and 5 years	Age 50 and age plus service equals 70 OR age 60 and 10 years OR age 62 and 5 years	Age 50 and age plus service equals 70 OR age 60 and 10 years OR age 62 and 5 years	Age 55 and age plus service equals 70 OR age 55 and 15 years OR if not working, age 62 and 10 years
Retirement Benefits	(2.0% of FAS) x (Years of Service)	(2.0% of FAS) x (Years of Service)	(2.0% of FAS) x (Years of Service)	(2.0% of FAS) x (Years of Service)	Vested assets in both EE & ER contributions and net earnings	5.5% of total salary earned as employee	(3.00% of FAS) x (Years of Service)	75% of current salary of sitting Judges	.275% of FAS for 1-20 yrs of svc. .20% of FAS for 21-25 yrs of svc. 1.5% of FAS for yrs over 25 with max of 90%	.275% of FAS for 1-20 yrs of svc. .20% of FAS for 21-25 yrs of svc. 1.5% of FAS for yrs over 25 with max of 90%	.275% of FAS for 1-20 yrs of svc. .20% of FAS for 21-25 yrs of svc. 1.5% of FAS for yrs over 25 with max of 90%	.275% of FAS for 1-20 yrs of svc. .20% of FAS for 21-25 yrs of svc. 1.5% of FAS for yrs over 25 with max of 90%	Retirements effective on 8/1/2025 (2.50% of FAS) x (Years of Service)
Final Average Salary (FAS)	36 highest consecutive months out of last 15 years of earnings	60 highest consecutive months out of last 15 years of earnings	5 highest (then years out of last 15 years of earnings)	5 highest (then years out of last 15 years of earnings)	Vesting: 33.33% at 6 years 66.67% at 9 years 100% at 12 years	N/A	5 highest calendar years out of last 10 years of service	N/A	5 highest consecutive months	5 highest consecutive plan years out of the last 10 years of earnings	5 highest consecutive plan years out of last 10 years of earnings	5 highest consecutive plan years out of last 10 years of earnings	5 highest consecutive plan years out of the last 10 years of earnings
COLA	No	No	No	No	No	3.75%	1.00%	No	No	No	No	No	No
Credit for Military Service	Yes - Credit for up to 5 years Yes - May purchase up to 5 years	Yes - May purchase up to 5 years	Yes - Credit for up to 10 years or 25% of total service	Yes - May purchase up to 5 years	Service under USERRA only	Yes - Credit for up to 5 years after 20 years of service	Yes - Credit for up to 5 years after 20 years of service	Yes - Credit for up to 5 years	Yes - Credit for up to 5 years	Yes - Credit for up to 5 years	Yes - Credit for up to 5 years	Yes - Credit for up to 2 years. May purchase 1 additional year.	Yes - Credit for up to 5 years
Disability Benefits	Yes - After 10 years of service for non-work related disability		Yes - After 10 years of service or 5 years of service for student violence		Yes - No minimum service	Any Age & Any Service	Any Age & Any Service	Yes - After 10 years of service or age 65 with 6 years	Any Age & Any Service	Yes - After 10 years of service for non-duty disability	Yes - After 10 years of service for non-duty disability	Yes - After 10 years of service for non-duty disability	Yes - After 10 years of service for non-duty disability
Interest Rate Assumption	7.25%		7.25%		N/A	7.25%	7.25%	7.25%	7.25%	7.25%	7.25%	7.25%	7.25%
Projected Primary UAL Authorization	by 6/30/2035		by 6/30/2034		N/A	by 6/30/2028	by 6/30/2032	N/A	by 6/30/2029	N/A	N/A	N/A	by 6/30/2051

CPRB Retirement Plans - Running Statistics

PLAN NAME	PLAN YEAR	ACTIVES		VESTED TERMS		NON-VESTED TERMS		RETIREEES		UAL (in millions)	% FUNDED *	MKT. VALUE ASSETS (in millions)
		TIER I	TIER II	TIER I	TIER II	TIER I	TIER II	TIER I	TIER II			
PERS	7/1/2020	23,893	11,888	4,917	1	14,892	6,121	28,449	1	\$377.51	95.0%	\$7,129.02**
	7/1/2021	22,268	13,308	4,926	3	14,674	7,774	29,006	3	\$196.39	97.5%	\$7,745.85**
	7/1/2022	20,322	14,630	5,130	2	14,238	9,638	29,398	7	\$95.15	98.8%	\$8,084.69**
TRRS	7/1/2023	18,805	16,198	5,113	3	14,053	11,461	29,858	9	\$207.69	97.6%	\$8,473.86**
	7/1/2020	25,046	9,707	3,038	0	3,282	1,910	36,797	0	\$3,038.52	72.8%	\$8,116.33**
	7/1/2021	23,564	11,549	2,919	0	3,133	2,186	37,282	0	\$2,754.98	76.0%	\$8,740.20**
TDC	7/1/2022	21,662	13,209	3,318	0	3,052	3,385	37,097	0	\$2,500.49	78.4%	\$9,091.95**
	7/1/2023	20,172	14,897	3,491	0	2,999	4,415	37,113	0	\$2,380.48	79.9%	\$9,940.16**
	7/1/2020	3,214	N/A	N/A	N/A	N/A	N/A	455***	N/A	N/A	N/A	\$582.99
STATE POLICE PLAN A	7/1/2021	2,648	N/A	N/A	N/A	N/A	N/A	522***	N/A	N/A	N/A	\$703.29
	7/1/2022	2,430	N/A	N/A	N/A	N/A	N/A	596***	N/A	N/A	N/A	\$603.84
	7/1/2023	2,283	N/A	N/A	N/A	N/A	N/A	684***	N/A	N/A	N/A	\$663.29
STATE POLICE PLAN B	7/1/2020	4	4	3	3	1	1	759	1	\$97.52	87.4%	\$675.60
	7/1/2021	4	4	2	2	1	1	752	1	(\$48.85)	106.1%	\$851.53
	7/1/2022	3	3	2	2	1	1	743	1	\$39.15	95.1%	\$767.21
JRS	7/1/2023	1	1	2	2	1	1	728	1	\$32.98	95.9%	\$778.13
	7/1/2020	626	590	17	17	134	138	59	59	\$29.05	88.4%	\$220.57
	7/1/2021	606	590	20	20	138	138	94	94	(\$11.41)	103.9%	\$301.16
DSRS	7/1/2022	596	596	23	23	148	148	119	119	\$45.53	86.4%	\$289.30
	7/1/2023	596	596	29	29	160	160	155	155	\$57.39	84.8%	\$320.04
	7/1/2020	19	58	2	0	0	0	59	0	(\$116.89)	218.3%	\$215.69
EMRSRS	7/1/2021	18	61	1	0	0	0	59	0	(\$173.98)	263.1%	\$280.66
	7/1/2022	17	64	1	1	0	0	57	0	(\$150.99)	239.5%	\$259.24
	7/1/2023	14	110	1	1	0	0	58	0	(\$156.78)	228.8%	\$278.49
MPPRS	7/1/2020	1,086	1,085	119	119	275	275	456	456	\$30.04	89.2%	\$247.78**
	7/1/2021	1,085	1,085	121	121	308	308	494	494	\$39.54	87.5%	\$277.32**
	7/1/2022	1,085	1,085	132	132	342	342	517	517	\$39.06	88.4%	\$298.00**
NRPORS	7/1/2023	1,073	1,073	145	145	372	372	556	556	\$44.93	87.7%	\$320.19**
	7/1/2020	611	611	70	70	299	299	130	130	\$1.69	98.1%	\$89.01
	7/1/2021	638	638	77	77	342	342	138	138	(\$13.56)	112.8%	\$119.22
TOTALS as of 7/1/2023	7/1/2022	637	637	94	94	403	403	154	154	(\$2.99)	102.7%	\$112.96
	7/1/2023	775	775	93	93	485	485	167	167	(\$4.75)	103.9%	\$125.93
	7/1/2020	436	436	6	6	149	149	1	1	(\$5.94)	166.5%	\$14.89
TOTALS as of 7/1/2023	7/1/2021	540	540	11	11	199	199	1	1	(\$10.72)	180.2%	\$24.10
	7/1/2022	602	602	15	15	238	238	1	1	(\$7.78)	140.1%	\$27.20
	7/1/2023	649	649	23	23	279	279	1	1	(\$8.82)	133.1%	\$35.48
TOTALS as of 7/1/2023	7/1/2021	111	111	4	4	3	3	3	3	\$2.85	89.8%	\$25.01**
	7/1/2022	115	115	3	3	6	6	7	7	\$2.91	90.3%	\$27.12**
	7/1/2023	113	113	3	3	5	5	10	10	\$6.59	81.6%	\$29.33**
TOTALS as of 7/1/2023		75,686	75,686	8,904	8,904	34,230	34,230	69,339	69,339	\$2,559.71		\$20,964.90

* Plan assets as a percent of Actuarial Accrued Liabilities
 **Actuarial Value Asset under 4 Year Asset Smoothing
 ***Receiving Periodic Payment Distribution

The materials contained herein are intended for general guidance purposes only. In the event there is a discrepancy between information contained here and the WV State Code and Rules, the language in the Code and Rules shall prevail.

