

STATE OF WEST VIRGINIA

**AUDIT REPORT
OF**

Public Employees Insurance Agency

For The Period

July 1, 1985 - June 30, 1995



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

FOR THE PERIOD

JULY 1, 1985 - JUNE 30, 1995

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance



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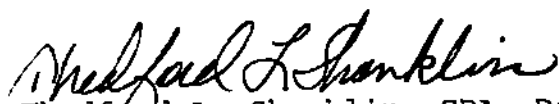
CHARLESTON, WEST VIRGINIA 25305

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the West Virginia Public Employees Insurance Agency.

Our examination covers the period July 1, 1985 through June 30, 1995. The results of this examination are set forth on the following pages of this report. However, only the financial statements for the years ended June 30, 1995 and June 30, 1994 are included in this report. The financial statements covering the period July 1, 1985 through June 30, 1993 are included in our audit workpapers.

Respectfully submitted,


Theodore L. Shanklin, CPA, Director
Legislative Post Audit Division

TLS/ela

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

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WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

EXIT CONFERENCE

We held an exit conference on April 30, 1997 with the Director and Chief Financial Officer of the West Virginia Public Employees Insurance Agency and all findings and recommendations were reviewed and discussed. The above officials' responses are included in italics in the Summary of Findings, Recommendations and Responses and after our recommendations in the General Remarks sections of this report.

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

INTRODUCTION

The Public Employees Insurance Board was created by an Act of the First Extraordinary Session of the 1971 West Virginia Legislature, by an amendment to Chapter 5 of the West Virginia Code, 1931, as amended, by adding a new article, designated as Article 16, Sections 1 through 16 known as the West Virginia Public Employees Insurance Act.

The Board was established to provide group hospital and surgical insurance, group major medical insurance and group life and accidental death insurance for all public employees. When the insurance program was originally established in 1971, participation was granted by the Legislature only to employees who worked regularly full-time in the service of the State. The 1972 Legislature granted participation privileges in the insurance program to full-time employees of county boards of education and the Board of Regents. Again in 1973, the Legislature granted participation privileges in the insurance program to include the following full-time employees of:

1. A county, city or town;
2. Any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law;

3. Any corporation or instrumentality supported in the most part by counties, cities or towns;
4. Any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns;
5. Any agency or organization established by, or approved by, the former Department of Mental Health for the provision of community health or mental retardation services and which is supported in part by State, county or municipal funds; and
6. Any person who works regularly full-time in the service of a combined city-county health department created pursuant to Chapter 16, Article 2 of the West Virginia Code.

An Act of the 1988 Regular Session of the West Virginia Legislature changed the name of the spending unit to the "West Virginia Public Employees Insurance Agency" and made substantive changes to the program. The most dramatic change was one which allowed retiring employees to convert two days of accrued annual and sick leave for one month of paid insurance for single coverage and three days of accrued annual and sick leave for one month of paid insurance for family coverage. In the alternate, the employee may elect to apply the accrued annual and sick leave toward an increase in the employee's retirement benefits on the basis of two days of retirement service credit for each one day of accrued annual and sick leave.

Through the enactment of Chapter 7, of the 1990 Third Extraordinary Session of the West Virginia Legislature, the Public

Employees Insurance Agency Finance Board was created. The Board was created to foster fiscal stability in the public employees' insurance program through the development of an annual financial plan to meet the Public Employees Insurance Agency's estimated total financial requirements. The Finance Board is required to submit the annual financial plan each year by January 1 preceding the fiscal year after conducting the required public hearings.

In addition, the 1990 Third Extraordinary Session of the West Virginia Legislature created the Public Employees Insurance Agency Advisory Board consisting of 15 members who are responsible for advising and making recommendations in terms of group hospital and surgical insurance, group major medical insurance and group life and accidental death insurance to the Director of the Public Employees Insurance Agency in reference to the administration and management of the spending unit. However, such recommendations and advice are not binding on the Director.

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

ADMINISTRATIVE OFFICERS AND STAFF

JUNE 30, 1995

Russell W. Brown Acting Executive Secretary
Thomas M. Woodward General Counsel
Vacancy Chief Financial Officer
Sonia Daugherty Chambers . . . Special Assistant to Coordinated
Health Purchasings
Gloria J. Long Benefits Manager/Analyst
Chip Myers Fiscal Officer
Fayette Bowen Officer Manager
Donna J. Accord Contract Manager
Janice E. Long Communications Specialist
Marie Terry Customer Service Supervisor
Dale Elswick Manager of Premium Accounts
and Eligibility

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY
SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES

No Investment of Insurance Premium Funds

1. The investment policy of the now-terminated State Board of Investments acted to divert a total of \$5,903,055.37 in interest earnings from Public Employees Insurance Agency (PEIA) accounts to the State General Revenue Fund between July 1, 1993 and December 31, 1995.

We recommend the PEIA invest their funds in accordance with Chapter 12, Article 6, Section 8 of the West Virginia Code, as amended.

Agency's Response

We will attempt to comply with the audit recommendation. (See pages 18-21.)

County Boards of Education - Underpayment of Insurance Premiums

2. The PEIA did not pursue collection of premiums totaling \$1,122,727.00 due the Agency from various county boards of education for fiscal year 1995 until the issue arose during the audit.

We recommend the PEIA comply with Chapter 5, Article 16, Section 18 of the West Virginia Code, as amended.

Agency's Response

We have now collected the entire balance of insurance premiums due us. (See pages 21-24.)

Audits of Prescription Drug Program

3. We noted the PEIA does not conduct or have conducted under contract, regular performance audits regarding the PEIA Prescription Drug Program; although in recent years the costs of the Prescription Drug Program have increased at a more rapid rate than medical claims.

We recommend the PEIA strengthen internal controls in the Prescription Drug Program by obtaining an operational audit specific to the Prescription Drug Program.

Agency's Response

We will comply with the audit recommendation upon the advent of the new contract effective January 1, 1998. (See pages 56 and 57.)

Overtime Calculation

4. The PEIA paid overtime to employees after 37.5 hours per week at a cost of \$9,236.00 during the period July 1, 1993 through June 30, 1995. Also, we noted one supervisory employee who was paid overtime at one and one-half times their supervisory rate of pay while performing the same duties as employees who they were supervising.

We recommend the PEIA comply with Chapter 21, Article 5C, Section 3, Subsection (a), of the West Virginia Code, as amended, and Title 42, Series 8, Section 9 of the Legislative Rules of the Department of Labor in determining hours worked. Also, we recommend the PEIA comply with Chapter 29, Article 6, Section 10, Subsections (1) and (2) of the West Virginia Code, as amended, and compensate employees who perform duties outside their position classifications at the same rate of pay as those who normally perform those duties.

Agency's Response

We will comply with the audit recommendation relating to the calculation of overtime starting at forty hours per week. We will continue to pay overtime to supervisory employees in those limited instances where we believe it to be appropriate.

(See pages 24-29.)

Absence of Time Sheets

5. Because PEIA employees were not required to submit time sheets during the audit period, we could not determine whether PEIA complied with State labor laws governing overtime compensation, nor verify the accuracy of employees' annual and sick leave balances or determine whether travel expense reimbursements received by employees were made in the correct amounts because auditing travel expenses is dependent on knowing when employees were present to perform duties on behalf of the spending unit.

We recommend the PEIA comply with Chapter 21, Article 5C, Section 5 of the West Virginia Code.

Agency's Response

We believe our system of leave request forms and our absence log are sufficient. (See pages 29 and 30.)

Workers' Compensation and Sick Leave

6. We noted an employee received temporary total disability benefits totaling \$2,642.08; however, the employee reimbursed only \$2,341.84 to buy back sick leave resulting in \$300.24 still being owed PEIA. Also, the employee was allowed to

accrue annual and sick leave while receiving temporary total disability benefits from November 18, 1993 through January 31, 1994.

We recommend the PEIA comply with Chapter 23, Article 4, Section 1 of the West Virginia Code, as amended. We also recommend the PEIA receive payment from the employee for the five days the employee received temporary total disability benefits and her regular salary. We recommend the sick and annual leave balances of the employee be adjusted for the leave time accrued during the period of temporary total disability benefits.

Agency's Response

We will comply with the audit recommendation. (See pages 30-33.)

Late Deposits

7. We noted receipts totaling \$908,460.31 were not deposited within 24 hours of collection resulting in approximately \$587.00 in foregone interest.

We recommend the PEIA comply with Chapter 12, Article 2, Section 2 of the West Virginia Code, as amended.

Agency's Response

During the period January through March 1995, PEIA held checks to verify the amounts paid against account statements resulting in the violation. We will comply with the audit recommendation. (See pages 33 and 34.)

Purchasing Procedures

8. We noted instances where PEIA obtained the services of a vendor to conduct a mass mailing and bought mailing envelopes where it appears State purchasing procedures were not fully complied with.

We recommend the PEIA comply with Chapter 5A, Article 3, Section 11 of the West Virginia Code, as amended, and the Agency Purchasing Procedures Manual of the West Virginia Purchasing Division of the Department of Administration.

Agency's Response

We have complied with the audit recommendation. (See pages 34-37.)

Meal Reimbursements for Single-Day Travel

9. PEIA staff received a total of \$58.41 in meal reimbursements for single-day travel between July 1, 1993 and June 30, 1995 which was not included in their compensation.

We recommend the PEIA comply with Chapter 11, Article 21, Sections 12 and 72 of the West Virginia Code, as amended.

Agency's Response

We will continue to comply with State travel regulations.

(See pages 37-40.)

Sick Leave Usage

10. PEIA employees took an average of 12.40 sick days per year at a cost of \$1,584.38 per employee annually which exceeds the Department of Administration's established threshold.

We recommend the PEIA continue to monitor employee sick leave and counsel those employees who utilize sick leave in excess of the threshold. In addition, we recommend the PEIA document these consultations in writing.

Agency's Response

All work performance related consultations with employees are documented and become part of the annual performance appraisal where appropriate. (See pages 40-43.)

Equipment Inventory Controls

11. PEIA did not submit an annual inventory to the Purchasing Division of the Department of Administration as required by law, the internal inventory maintained by PEIA lacked some information needed to make it useful and nearly all equipment was not tagged.

We recommend the PEIA comply with Chapter 5A, Article 3, Section 35 of the West Virginia Code and Section 4A of the West Virginia State Property Handbook. We also recommend the Agency include in the inventory the missing information listed in the audit finding and affix the appropriate inventory tags.

Agency's Response

We will comply with the audit recommendation. (See pages 43-45.)

Annual Increment

12. We noted one employee who we believe is owed a net amount of \$360.00 and another employee who we believe is owed \$192.84 for annual increment.

We recommend the PEIA and the Department of Administration Payroll Section comply with Chapter 5, Article 5, Section 2 of the West Virginia Code, as amended, when calculating the

number of years of service for increment payments, and the Attorney General's Opinion No. 37, dated June 27, 1990, when calculating any fractional portion of increment payments. Also, we recommend the PEIA take the necessary steps to compensate the aforementioned employees a total of \$360.00 and \$192.84, respectively, and review other increment payments to insure other employees were properly paid.

Agency's Response

We will comply with the audit recommendation. (See pages 45-50.)

Leave Accruals

13. We noted two employees who had errors in their accrued annual and/or sick leave balances. Both individuals are still with the agency.

We recommend the PEIA comply with Section 15.03(a) of the Division of Personnel's Administration Rule when calculating their employee's accrued annual leave. We also recommend the PEIA adjust the two employees' annual and/or sick leave balances as required.

Agency's Response

We will comply with the audit recommendation. (See pages 50-52.)

Contractual Services - Inadequate Accounting Records

14. The PEIA did not maintain records detailing the invoices paid against each contract and did not have ledgers which would allow them to know the remaining balance of the spending authority pertaining to each contract.

We recommend the PEIA comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended.

Agency's Response

We will comply with the audit recommendation. (See pages 53 and 54.)

Moneys Deposited to Wrong Funds

15. Our audit showed several instances where moneys totaling a gross amount of \$388,812.36 were deposited into incorrect accounts. After netting incorrect deposits, a net amount of \$305,812.16 is required to be transferred to properly balance the accounts.

We recommend the PEIA strengthen internal controls in the area of collection, recording and depositing of receipts. Also, we recommend the PEIA transfer \$250,974.76 from the Administrative Expense Fund to the Basic Insurance Fund, \$39,067.97 from the Administrative Expense Fund to the Optional Insurance Fund and \$15,769.43 from the Non-State Health Claims Fund to the Optional Insurance Fund to correct deposit errors.

Agency's Response

We will work to prevent future errors. (See pages 57-61.) No Response by Agency regarding recommendation to transfer funds.

Payroll/Overtime

16. We noted errors regarding the number of overtime hours to be paid PEIA employees were submitted to the Department of Administration's centralized payroll section by PEIA staff; however, the Payroll Section detected the errors before any improper payments were made.

We recommend the PEIA strengthen internal controls in the area of payroll.

Agency's Response

We will comply with the audit recommendation. (See pages 61 and 62.)

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the West Virginia Public Employees Insurance Agency. The audit covered the period July 1, 1985 through June 30, 1995.

GENERAL REVENUE ACCOUNT

The West Virginia Public Employees Insurance Agency maintained the following General Revenue Account:

<u>Fund Number</u>	<u>Old Account Number</u>	<u>Description</u>
0200-129	6150-37	PEIA Fund

SPECIAL REVENUE ACCOUNTS

The West Virginia Public Employees Insurance Fund maintained the following special revenue accounts. These accounts represent funds from proceeds of specific activities as required by law or administrative regulations.

<u>Fund Number</u>	<u>Old Account Number</u>	<u>Description</u>
2180-099	8265-05	Basic Insurance Premium Fund - Unclassified
2180-640	8265-05	Basic Insurance Premium Fund - Departmental and Miscellaneous Income

2181-099	8265-06	Administrative Expense Fund - Unclassified
2181-640	8265-06	Administrative Expense Fund - Departmental and Miscellaneous Income
2182-099	8265-07	Optional Life Insurance Premium Fund - Unclassified
2182-640	8265-07	Optional Life Insurance - Premium Fund - Departmental and Miscellaneous Income
2183-099	8265-23	Non-State Health Claims Fund-Unclassified
2183-640	8265-23	Non-State Health Claims Fund - Departmental and Miscellaneous Income

COMPLIANCE MATTERS

Chapter 5, Article 16 of the West Virginia Code generally governs the West Virginia Public Employees Insurance Agency (PEIA). We tested applicable sections of the above, plus general State regulations and other applicable chapters, articles, and sections of the West Virginia Code as they pertain to fiscal matters. Our findings are discussed below.

No Investment of Insurance Premium Funds

Chapter 12, Article 6, Section 8(c) of the West Virginia Code, as amended, stated,

"Each board, commission, department, official or agency charged with the administration of state funds is hereby authorized to make moneys available to the board for investment. State funds received by the board shall be deposited in the state account."

As reported by us in several previous post audits of the West Virginia State Board of Investments, effective November 1, 1989, the State Board of Investments would allow the investment of special revenue funds only where the specific statutes creating such funds mentioned the investment of these moneys. The relevant sections of Chapter 5, Article 16 of the West Virginia Code do not contain such language and the State Board of Investment's policy has resulted in interest earnings being diverted to the State General Revenue Fund which could have been earned by the Basic Insurance Premium Fund - Fund Number 2180 and the Non-State Health Claims Fund - Fund Number 2183 as follows:

	<u>Average Balance</u>	<u>Total Interest Lost</u>
Fiscal Year 1994		
Basic Insurance Premium Fund	\$17,454,365.00	\$ 696,004.18
Non-State Health Claims Fund	\$29,592,863.00	<u>1,033,443.25</u>
TOTAL - FY 1994		1,729,447.43
Fiscal Year 1995		
Basic Insurance Premium Fund	\$11,689,307.00	615,971.78
Non-State Health Claims Fund	\$42,025,957.00	<u>2,247,966.83</u>
TOTAL - FY 1995		2,863,938.61

Fiscal Year 1996 through 12/31/95

Basic Insurance Premium Fund	\$38,536,478.00	1,134,343.09
Non-State Health Claims Fund	\$ 7,056,390.00	<u>175,326.44</u>
TOTAL - FY 1996 (as of 12/31/95)		<u>1,309,669.53</u>
TOTAL		<u>\$5,903,055.57</u>

The State Board of Investments' policy diverted a total of \$5,903,055.57 of interest earnings from PEIA accounts consisting of \$2,446,319.05 from the Basic Insurance Premium Fund and \$3,456,736.52 from the Non-State Health Claims Fund to the State General Revenue Fund between July 1, 1993 and December 31, 1995. If these moneys had been invested by PEIA, these interest earnings would have been available to pay insurance claims and temper the necessity for premium increases for participating employees and employers.

As of April 12, 1997, the State Board of Investments was replaced by the Investment Management Board and Chapter 12, Article 6, Section 8(b) of the West Virginia Code now states,

"Each board, commission, department, official or agency charged with the administration of state funds is hereby authorized to make moneys available to the board for investment."

We believe the Investment Management Board does not have authority to limit PEIA's ability to invest these funds because the

aforementioned statute gives PEIA the right to invest funds under their control.

We recommend the PEIA invest their funds in accordance with Chapter 12, Article 6, Section 8 of the West Virginia Code, as amended.

Agency's Response

The PEIA, its Finance Board and its Actuaries have contended over the past six (6) years that it should benefit from the investment interest from its premium account balances. But the Board of Investments has not agreed and has refused up to this time to allow PEIA to maintain that income to offset premium increases.

The PEIA will pursue with the Treasurer's Office the investment of surplus premium balances to offset future plan costs per W.Va. Code §5-16-25.

County Boards of Education - Underpayment of Insurance Premiums

During fiscal year 1995, most county boards of education did not pay the full amount of premiums due the Public Employees Insurance Agency (PEIA) even though the boards were required by law to pay premiums from certain local funds up to specified limits. Chapter 5, Article 16, Section 18 of the West Virginia Code, as amended, states in part:

"...Beginning the first day of July, one thousand nine hundred ninety-five, and thereafter, the amount of such payments for

county boards of education shall be determined by the method set forth in section twenty-four (§18-9A-24), article nine-a, chapter eighteen of this code: Provided, That local excess levy funds shall be used only for the purposes for which they were raised: Provided, however, That after approval of its annual financial plan, but in no event later than the thirty-first day of December of each year, the finance board shall notify the Legislature and county boards of education of the maximum amount of employer premiums that the county boards of education will be required to pay for covered employees during the following fiscal year: Provided further, That the amount shall not exceed five million, five hundred thousand dollars during fiscal year one thousand nine hundred ninety-four: And provided further, That the amount shall not exceed four million dollars during fiscal year one thousand nine hundred ninety-five...."

Our audit indicates the county boards of education collectively underpaid PEIA by a total of \$1,122,727.00 for fiscal year 1995 as reflected in the following schedule:

	<u>Total Premiums Paid</u>	<u>Total Premiums Billed</u>	<u>Difference</u>
PEIA	\$112,294,656.00	\$113,417,383.00	(\$1,122,727.00)
Health Maintenance Organizations (HMOs)	<u>6,089,617.00</u>	<u>6,089,617.00</u>	<u>-0-</u>
	<u>\$118,384,273.00</u>	<u>\$119,507,000.00</u>	<u>(\$1,122,727.00)</u>

As the schedule shows, the PEIA billed the county boards of education insurance premiums totaling \$113,417,383.00 which was in addition to \$6,089,617.00 of insurance premiums from Health

Maintenance Organizations (HMOs) for total premiums of \$119,507,000.00. The boards of education paid all premiums due HMOs, but failed to pay \$1,122,727.00 due PEIA.

The West Virginia Department of Education received a general revenue appropriation which was allocated to the county boards of education to pay insurance premiums which totaled \$116,027,065.00 in fiscal year 1995. Based on the aforementioned Chapter 5, Article 16, Section 18 of the West Virginia Code, the boards would have been responsible for paying as much as an additional \$4,000,000.00 in premiums resulting in a total potential liability of \$120,027,065.00 in fiscal year 1995. Since the total billings of both PEIA and the HMOs of \$119,507,000.00 was less than \$120,027,065.00, PEIA could have collected the \$1,122,727.00 due them.

Our discussions with PEIA staff indicate they did not realize that under the law, the county boards of education would have been responsible for the full payment of all PEIA billings for fiscal year 1995. Our audit showed some boards were not paying all monthly premiums, particularly toward the end of the fiscal year. Agency staff told us this situation was occurring because the general revenue allocation was insufficient to pay all premiums. It is apparent the PEIA was not monitoring the billings and

payments of the Boards to ensure compliance with Chapter 5, Article 16, Section 18 of the West Virginia Code because PEIA was unable to readily provide the amount of premiums which were unpaid. Agency staff was operating under the belief the unpaid premiums could not lawfully be collected and such unpaid premiums were not included in the listing of accounts receivable provided to us at the beginning of the audit. Subsequent to our discussion with them, PEIA collected the \$1,122,727.00 due them.

We recommend the PEIA comply with Chapter 5, Article 16, Section 18 of the West Virginia Code, as amended.

Agency's Response

Please see attached Transfer of Funds record from the Office of the State Auditor indicating receipt of \$883,841. The PEIA received in December 1996 the difference of the outstanding balance directly from Upshur County Board.

Overtime Calculation

Chapter 21, Article 5C, Section 3 of the West Virginia Code states in part:

"(a) On and after the first day of July, one thousand nine hundred eighty, no employer shall employ any of his employees for a work week longer than forty hours, unless such employee receives compensation for his employment in excess of the hours above specified at a rate of not less than one and

one-half times the regular rate at which he is employed...."

We noted the PEIA paid overtime to employee's after 37.5 hours per week during the period July 1, 1993 through June 30, 1995. Title 42, Series 8, Sections 9.2 and 9.3 of the Division of Labor's Legislative Rules define work and non-work time as follows.

"9.2. Non-work time.-- Periods during which an employee is completely relieved from duty and which are long enough to enable him to use the time effectively for his own time are not hours worked.

9.3. Work time.-- The employee whose time is spent in physical or mental exertion under control and direction of the employer constitutes hours worked."

We noted the PEIA utilizes the full eight-hour workday when computing employees' overtime worked for compensation. During the period of July 1, 1993 through June 30, 1995, the PEIA employees' work schedule was an eight-hour work day, with one-half hour of paid lunch. Employees were also provided two 15-minute break periods which could not be used to shorten a workday nor to extend a lunch period.

Sections 9.8 and 9.9 of the Rules define mealtime and rest periods as follows:

"9.8. Mealtime.-- Bona fide meal periods are not work time.

9.9. Rest Periods.-- Rest periods of short duration running from five (5) to twenty (20) minutes, must be counted as hours worked."

We believe the inclusion of employee lunch periods in the Agency's computation of hours worked is an extravagant method of compensating employees for hours worked in excess of their normal workweek.

Using the West Virginia State Auditor's Office Payroll Register, we determined the PEIA employees examined by us were paid a total of \$8,879.25 in overtime pay during the period of July 1, 1993 through June 30, 1995. We calculated these employees were paid a total of \$2,720.80 in overtime due to the one-half hour lunch periods being treated as work time. Based on our testing, we believe approximately 31% of the overtime paid to employees during this period may be attributable to lunch periods being used to compute employees' hours worked. Based on the information in the overtime reports provided to the PEIA by the Department of Administration's Payroll Office, the PEIA paid its employees \$29,793.00 for overtime during the period. Based on the results of our testing, we believe \$9,236.00 of this amount may be attributable to the method used by PEIA to compute the employees' countable work time.

During our test of payroll/overtime, we also noted one employee (a Supervisor III), whose position classification was assigned "exempt from overtime pay" status under the Fair Labor Standards Act (FLSA), was occasionally paid for hours worked in excess of the normal workweek performing the same duties as the employees who they were supervising.

It was also noted that, while the employees were performing work similar to those being supervised, the employees were compensated at their supervisory rate of pay rather than at the rate of pay of the subordinate employees.

Chapter 29, Article 6, Section 10, as amended, of the West Virginia Code states in part:

"(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service and a position classification plan for all positions in the classified-exempt service based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class....

(2) For a pay plan for all employees in the classified service.... Each employee shall be paid at one of the rates set forth in the pay plan for the class of position in which he is employed. The principle of equal pay for equal work in the several agencies of the state government shall be followed in the pay plan as established hereby."

We believe, that during periods of work in which employees perform duties of a job classification other than their own, the employees should be compensated at the rate of pay commensurate to the duties which they are performing.

We recommend the PEIA comply with Chapter 21, Article 5C, Section 3, Subsection (a), of the West Virginia Code, as amended, and Title 42, Series 8, Section 9 of the Legislative Rules of the Department of Labor in determining hours worked. Also, we recommend the PEIA comply with Chapter 29, Article 6, Section 10, Subsections (1) and (2) of the West Virginia Code, as amended, and compensate employees who perform duties outside their position classifications at the same rate of pay as those who normally perform those duties.

Agency's Response

The PEIA will alter its base for overtime calculations to forty hours per week from 37.5 for classified positions. Due to extraneous situations related to work cycles at PEIA such as open enrollment, benefit fairs, workshops for training, PEIA has sought from time to time approval to pay exempt persons overtime. This is in instances where the extra hours are project related, for short duration of time and the extra time greatly extends the normal workday.

In these cases, PEIA feels it appropriate to pay such individuals and will conform with new standards as developed at the Federal level. This situation was discussed with Personnel Division and I was told exempt classification does not necessarily mean a person is exempt from overtime.

Absence of Time Sheets

Chapter 21, Article 5C, Section 5 of the West Virginia Code states:

"Every employer subject to the provisions of this article shall make or cause to be made, and shall keep and preserve at his place of business for a period of two years, a written record or records of the name and address of each of his employees as herein defined, his rate of pay, hours of employment, payroll deductions, and amount paid him for each pay period." (Emphasis added)

Our audit showed the PEIA's employees were not required to maintain time sheets for the period of July 1, 1993 through June 30, 1995. As a result, we could not readily determine whether PEIA complied with the State labor laws governing overtime compensation. In addition, due to the absence of time sheets, we could not properly verify the accuracy of the annual and sick leave balances. Also, we could not readily determine whether travel expenses reimbursements received by the employees were made in the correct amounts because the audit of travel expense reimbursements depends

on knowing when the employees are present to perform duties on behalf of the spending unit.

We recommend the PEIA comply with Chapter 21, Article 5C, Section 5 of the West Virginia Code.

Agency's Response

PEIA employees are required to fill out "Application for Leave with Pay" forms and a "Daily Absence Log" maintained in the Agency to support documentation on hours worked. Short of installing a centralized time and attendance system, these logs are as useful as daily hand written sheets.

Workers' Compensation and Sick Leave

Chapter 23, Article 4, Section 1 of the West Virginia Code, as amended, states in part:

"Subject to the provisions and limitations elsewhere in this chapter set forth, the commissioner shall disburse the workers' compensation fund to the employees of employers subject to this chapter, which employees have received personal injuries in the course of and resulting from their covered employment...Provided, That in the case of any employees of the state and its political subdivisions, including...who have received personal injuries in the course of and resulting from their covered employment, such employees are ineligible to receive compensation while such employees are at the same time and for the same reason drawing sick leave benefits. Such state employees may only use sick leave for non-job related absences

consistent with sick leave utilization, and may draw workers' compensation benefits only where there is a job related injury....That in the event an employee is injured in the course of and resulting from covered employment and such injury results in lost time from work, and such employee for whatever reason uses or obtains sick leave benefits and subsequently receives temporary total disability benefits for the same time period, such employee may be restored sick leave time taken by him or her as a result of the compensable injury by paying to his or her employer the temporary total disability benefits received or an amount equal to the temporary total disability benefits received. Such employee shall be restored sick leave time on a day to day basis which corresponds to temporary total disability benefits paid to the employer ..."
(Emphasis added)

During our test of sick leave, we noted an employee having sick leave benefits restored which were used due to an injury sustained in the course of employment. The employee was injured on November 16, 1993 and received temporary total disability benefits from November 18, 1993 to February 7, 1994. Sick leave benefits were used from November 18, 1993 to December 31, 1993. The employee indicated the Department of Administration's Payroll Section advised the employee that for record keeping, it would be better for the Payroll Section if the employee remained on the payroll through December 31, 1993, at which time the employee's sick leave would be restored upon reimbursement to the PEIA the amount of the temporary total

disability benefits received during the period. The amount of temporary total disability benefits received during the period of November 18, 1993 through December 31, 1993 (44 days) was \$2,642.08. We found evidence that the PEIA was only reimbursed for 39 days, or \$2,341.84. The remaining five days, or \$300.24 has not been reimbursed to the PEIA, and therefore, the employee's sick leave should not have been restored for the five days.

We noted the same employee received the full amount of accrual for sick and annual leave for the period from November 18, 1993 through January 31, 1994 while receiving temporary total disability benefits. Sections 15.03, Subsection (f) and 15.04, Subsection (e), respectively, of the Division of Personnel Administrative Rule state in Part:

"... Annual leave does not accrue after the effective date of separation...."

"...Sick Leave does not accrue after the effective date of separation...."

We believe the Division of Personnel's Rules do not allow employees to continue to accrue leave benefits while they are drawing Workers' Compensation benefits, since technically they are separated temporarily from employment and no services are being rendered.

We recommend the PEIA comply with Chapter 23, Article 4, Section 1 of the West Virginia Code, as amended. We also recommend the PEIA receive payment from the employee for the five days the employee received temporary total disability benefits and her regular salary. We recommend the sick and annual leave balances of the employee be adjusted for the leave time accrued during the period of temporary total disability benefits.

Agency's Response

The PEIA will research this situation and if possible rectify the error when the person is identified to us. The individuals have been identified to PEIA's management so corrective action can be taken.

Late Deposits

Chapter 12, Article 2, Section 2 of the West Virginia Code, as amended, states in part:

"All officials and employees of the state authorized by statute to accept moneys due the state of West Virginia shall keep a daily itemized record of such money so received for deposit in the state treasury and shall deposit within twenty-four hours with the state board of investments all moneys received or collected by them for or on behalf of the state for any purpose whatsoever...."

We examined 391 receipts of the Public Employees Basic Health and Life Optional Life Insurance plans. We noted 133 of

these receipts totaling \$908,460.31 were not deposited within 24 hours of collection. The deposits ranged from three to 21 days after receipt of the moneys. The PEIA lost the use of the receipts for these days, as well as, approximately \$587.00 in interest.

We recommend the PEIA comply with Chapter 12, Article 2, Section 2 of the West Virginia Code, as amended.

Agency's Response

This was an aberration due to three months of premiums being received at one time for January through March 1995. Checks were held to verify against statements at that time but if the need occurs again, checks will be copied then sent for deposit within 24 hours.

Purchasing Procedures

Chapter 5A, Article 3, Section 11 of the West Virginia Code states in part:

"The director may make a purchase of commodities, printing and services of ten thousand dollars or less in amount in the open market, but such purchase shall, wherever possible, be based on at least three competitive bids...."

The Agency Purchasing Procedures Manual of the Purchasing Division of the Department of Administration, revised April 4, 1994, delegates this authority to the spending unit and states in part:

"Section 2.1 PURCHASES UNDER \$10,000: State agencies may procure products and services with an estimated value of less than \$10,000 in accordance with Policy Statement #20 which defines purchases considered to be under \$10,000. All purchases over \$500 require bids....

Section 2.1.2 \$501 to \$5,000: Obtain a minimum of three (3) verbal bids, when possible. Document and record all bids for public record. A written purchase order (WV-88 or TEAM-Generated Purchase Order) is required....

Section 2.1.5 Direct Purchase under \$10,000: Whenever an item is unique and possesses specific characteristics that are available from only one source, Form WV-88, Agency Purchase Order must be completed.

In a direct purchase situation, competition is not available - the products or services are only available from one source....

During our audit, we noted two instances in which purchases of services or commodities were not in accordance with the applicable State Code and/or the Agency Purchasing Procedures Manual.

In the first instance, the PEIA obtained the service of a vendor to "carrier-route sort" a mailing at a cost of \$5,726.49.

According to PEIA personnel, the vendor was the only business capable of handling a mass mailing of the volume anticipated by the PEIA within the required time frame. It is our understanding PEIA obtained approval for such services as a "sole source" purchase from the Purchasing Division of the Department of Administration in 1993. From a conversation with PEIA personnel, this approval was understood by them to have been a 'blanket' approval for the purchase in 1993 and for all similar purchases of "carrier-route sort" mailing in the future where the vendor was the "sole source" provider of such service.

From a conversation with personnel at the Purchasing Division, we learned the approval obtained for the "sole source" purchase in 1993 would have been for that particular purchase only. The PEIA would have been required to go through the same procedures as set out in the purchasing manual each time the service was required. In addition, neither the PEIA nor the Purchasing Division could locate any of the written documentation concerning the request for this "sole source" purchase in 1993.

In the second instance, the PEIA followed procedures by obtaining three bids when purchasing envelopes at a cost of \$2,042.25. However, the bids were not documented on the prescribed form for public record. We believe all purchases by the Agency

should be made in accordance with the Agency Purchasing Procedures Manual.

We recommend the PEIA comply with Chapter 5A, Article 3, Section 11 of the West Virginia Code, as amended, and the Agency Purchasing Procedures Manual of the West Virginia Purchasing Division of the Department of Administration.

Agency's Response

This has been corrected.

Meal Reimbursements for Single-Day Travel

Chapter 11, Article 21, Section 72 of the West Virginia Code states in part:

"Every employer required to deduct and withhold tax under this article from the wages of an employee, or who would have been required so to deduct and withhold tax if the employee had claimed no more than one withholding exemption, shall furnish to such employee in respect of the wages paid by such employer to such employee... a written statement as prescribed by the tax commissioner showing the amount of wages paid by the employer to the employee, the amount deducted and withheld as tax, and other information as the tax commissioner shall prescribe."

In accordance with the provisions of the Governor's Travel Regulations, Agency staff were reimbursed for meal expenses incurred during the audit period where the trips involved did not

require an overnight stay (single-day travel). However, these amounts were not reported to these individuals on a Form W-2 (Wage and Tax Statement). Paragraphs (d)(2) and (c)(5) of the Regulation §1.62 of the Internal Revenue Services' Income Tax Regulations states:

"(d)(2) *Other bona fide expenses.* If an arrangement provides advances, allowances, or reimbursements for business expenses described in paragraph (d)(1) of this section (i.e., deductible employee business expenses) and other bona fide expenses related to the employer's business (travel that is not away from home) that are not deductible under Part VI (section 161 and the following), subchapter B, chapter 1 of the Code, the payor is treated as maintaining two arrangements. The portion of the arrangement that provides payments for the deductible employee business expenses is treated as one arrangement that satisfies this paragraph (d). The portion of the arrangement that provides payments for the nondeductible employee expenses is treated as a second arrangement that does not satisfy this paragraph (d) and all amounts paid under this second arrangement will be treated as paid under a non-accountable plan. See paragraphs (c)(5) and (h) of this section..."

"(c)(5) *Treatment of payments under non-accountable plans.* Amounts treated as paid under a non-accountable plan are included in the employee's gross income, must be reported as wages or other compensation on the employee's Form W-2, and are subject to withholding and payment of employment taxes (FICA, FUTA, RRTA, RURT, and income tax)....Expenses attributable to amounts included in the employee's gross income may be

deducted, provided the employee can substantiate the full amount of his or her expenses (i.e., the amount of the expenses, if any, the reimbursement for which is treated as paid under an accountable plan as well as those for which the employee is claiming the deduction) in accordance with §1.274-5T and 1.274(d)-1, or §1.162-17, but only as a miscellaneous itemized deduction subject to the limitations applicable to such expenses...." (Emphasis added)

Further, Chapter 11, Article 21, Section 12 of the West Virginia Code, as amended, states in part:

"(a) *General* - The West Virginia adjusted gross income of a resident individual means his federal adjusted gross income as defined in the laws of the United States for the taxable year with the modifications specified in this section...."

Therefore, any reimbursement received for non-deductible travel expenses are considered as taxable income under both Federal and West Virginia tax law.

According to our audit, PEIA staff received a total of \$58.41 in meal reimbursements for single-day travel during the period of July 1, 1993 through June 30, 1995. We believe the PEIA should have reported the meal reimbursements as compensation to the respective employees.

We recommend the PEIA comply with Chapter 11, Article 21, Sections 12 and 72 of the West Virginia Code, as amended.

Agency's Response

Current travel regulations state that an employee is eligible for meal reimbursement when traveling on state business during the normal meal time. The PEIA will maintain compliance with current travel regulations.

Sick Leave Usage

During our audit we performed an examination of sick leave used by PEIA employees. This examination shows PEIA employees took a total of 1,644 days of sick leave costing \$209,964.00 during the period January 1, 1990 through June 30, 1995 or an average of \$45,947.00 annually. The average annual cost was determined by dividing the total cost of \$209,964.00 by 4.57 (The average length of service during the study period.) Our review of PEIA records indicates employees with salaries below the average salary of \$24,265.00 took more sick leave than employees whose salaries were above this average. Employees whose salaries were below the average salary took an average of 13.55 days of sick leave per year. The employees with salaries above \$24,265.00 took an average of 5.88 days of sick leave per year.

Analyzing sick leave based on tenure shows employees with 10 to 15 years of service have the highest average sick leave usage. These employees took a total of 629 days of sick leave, or an average of 14.31 days per year during the audit period.

Meanwhile, employees with less than five years of service took the least amount of sick leave, a total of 62 days of sick leave or an average of 5.00 days per year. Overall, PEIA employees took an average of 12.40 sick days per year at a cost of \$1,584.38 per employee annually.

The PEIA is part of the centralized payroll system of the West Virginia Department of Administration which includes record-keeping for employee leave. The Secretary of the Department of Administration issued a directive dated January 9, 1991, the purpose of which was to establish a written policy relating to the use of earned sick leave for employees working in his department. This directive extended to agencies utilizing the centralized payroll and defined excessive sick leave as follows:

"For the purpose of this directive, sick leave abuse shall be determined to occur when unsupported sick leave hours are equal to or greater than 5.0% of the time available for work in a given period of time, normally six (6) months or greater in duration, and 50% of those absences occur immediately before or after holidays, paydays, weekends, or periods of annual leave.

Sick leave days in excess of three (3) days requiring a doctor's statement, and sick leave use for death in the immediate family will not be considered when computing unsupported sick leave of 5.0%."

To serve as a mechanism to alert the agency of situations where employee attendance at work has reached a threshold that should warrant review, the Department of Administration's automated leave tracking system provides the agency with a computer-generated report on a quarterly basis of employees who exceed the 5.0% minimum for used sick leave during a specified period.

From our conversations with appropriate PEIA personnel and our review of PEIA records, it appears:

1. 'Sick Leave Restriction Reports' from the Department of Administration for employees identified as having used sick leave in excess of the 5.0% threshold were received by PEIA on a quarterly basis.
2. A copy of the report was given to respective employees appearing on the report and a copy was submitted to the PEIA Director for informational purposes.
3. Each employee appearing on the report was counseled as to the pattern of sick leave usage by the appropriate supervisor and given a copy of the sick leave policy to read. PEIA does not have a policy requiring such consultations be documented in writing.

We noted those employees counseled had a subsequent reduction in their usage of sick leave sufficient to bring them within the established 5% threshold. However, the 5% threshold allows employees to use approximately 12.25 days of unsupported sick leave in any twelve-month period.

We recommend the PEIA continue to monitor employee sick leave and counsel those employees who utilize sick leave in excess

of the threshold. In addition, we recommend the PEIA document these consultations in writing.

Agency's Response

All work performance related consultations with employees are documented and become part of the annual performance appraisal where appropriate.

Equipment Inventory Controls

Controls over equipment items in the possession of the Public Employees Insurance Agency are not adequate. We saw no evidence that the Agency had submitted an annual inventory to the Purchasing Division of the West Virginia Department of Administration as required by law. Chapter 5A, Article 3, Section 35 of the West Virginia Code states:

"The head of every spending unit of state government shall, on or before the fifteenth day of July of each year, file with the director an inventory of all real and personal property, and of all equipment, supplies and commodities in its possession as of the close of the last fiscal year, as directed by the director."

Spending units have not been directed by the Director of Purchasing to file an annual inventory, and the current Purchasing Handbook, revised April 4, 1994, states under "Inventory Management" that guidelines are currently in production. Adequate

safeguards over equipment limits access to and use of assets to authorized State business. The Public Employees Insurance Agency had conducted an inventory in fiscal years 1994 and 1995. However, the fiscal year 1995 inventory list appeared to be a copy of the fiscal year 1994 inventory with some newly purchased equipment being added at the end of the inventory report. We attempted to trace equipment items located throughout the Agency to the inventory listing and from the inventory listing to location but were unable to do so. We found that nearly all equipment in the possession of the Agency had not been tagged. Equipment which did have identifying tags, some of which were peel-off paper stickers with numbers written on them, were not traceable to the inventory.

Section 4A of the West Virginia State Property Handbook promulgated by the West Virginia State Agency for Surplus Property states in part:

"Inventory Tag Numbers must be assigned, by the agencies, to all property reported on their inventories."

The Agency had permanent tag numbers in their possession, but these tags had not been applied to the equipment.

The Public Employees Insurance Agency has purchased a significant dollar amount of equipment over the past few years. During fiscal year 1994, the Agency purchased approximately

\$61,210.00 in equipment and for fiscal year 1995, the Agency purchased approximately \$100,118.00 in equipment.

Although the inventory performed by PEIA was a step in the right direction in terms of safeguarding of assets, the inventory was still lacking some vital information such as the name and address of the vendor; the date purchased; the price paid for the property; detailed location of the property and disposition thereof. Most importantly, all equipment items must be assigned identifying tags to make the inventory useful and verifiable.

We recommend the PEIA comply with Chapter 5A, Article 3, Section 35 of the West Virginia Code and Section 4A of the West Virginia State Property Handbook. We also recommend the Agency include in the inventory the missing information listed in the audit finding and affix the appropriate inventory tags.

Agency's Response

All recently acquired equipment has been inventoried and identified. Most of the furnishings are of such age that the expense to collect vital information on it would greatly exceed the non depreciated value.

Annual Increment

We noted two employees whose years of service were not calculated correctly for annual increment payment. Chapter 5,

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

"Effective for the fiscal year beginning the first day of July, one thousand nine hundred eighty-five, every eligible employee with three or more years of service shall receive an annual salary increase equal to thirty-six dollars times the employees' years of service, not to exceed twenty years of service. In each fiscal year thereafter and on the first day thereof, each such employee shall receive an annual increment increase of thirty-six dollars for such fiscal year:..."

We reviewed a memorandum dated January 11, 1990 in the agency file of an employee noting the employee was entitled to an increment payment for 12 years of service (\$432.00) in July 1989, but had not received it. From a review of the 1989 increment payroll and conversations with the appropriate PEIA and Department of Administration Payroll Section personnel, we found no evidence the employee received an increment payment in July 1989.

Also, we noted the same employee received increment payments in July 1993 and July 1994 which did not correspond to the employee's years of service with the State. Based on information obtained from the employee's WV-11 Personnel Action form and the Division of Personnel's "Tenure Report - December 1, 1995", we calculated the number of years of service for fiscal years 1993 and 1994 to be 16 and 17 years, respectively. However, it is our

understanding the Department of Administration Payroll Section calculates the amount of the increment payment for its employees by increasing the increment amount on the prior year's increment payroll register by \$36.00. The employee received increment payments in the amount of \$612.00 and \$648.00 in July 1993 and July 1994, respectively, (which are the increment amounts for an individual with 17 and 18 years of service, respectively).

For the audit period, we found the employee is owed an increment payment of \$432.00 for 12 years of service in 1989 which the employee has not received. This amount, however, should be reduced by \$72.00 (for overpayments in increment pay of \$36.00 each for fiscal years 1993 and 1994). We believe the employee is still owed a net increment amount of \$360.00

Another employee was employed by the State on April 23, 1990. On the advice of the Division of Personnel, the PEIA denied the employee an increment payment on July 1, 1993. The basis of the decision was the employee did not have the required three years service with the State, as set out in Chapter 5, Article 5, Section 2, as amended, of the West Virginia Code.

Based on the information in the employee's "Tenure Report - December 1, 1995" from the Division of Personnel, the employee actually had three years of service with the PEIA on June 16, 1993.

We calculated the employee's years of service for fiscal years 1993 and 1994 to be three and four years, respectively. However, the Department of Administration's payroll section calculated the years of employment to be two and three years, respectively. It appears the miscalculation of years of service was due to the employee periodically being on a 'leave-without-pay' status from April 23, 1990 to June 30, 1993.

We noted that, due to the miscalculation of years of service in June 1993, this employee was underpaid \$108.00 in July 1993, as well as, \$36.00 on the July 1994 and July 1995 increment payrolls, respectively. Also, when this employee terminated employment with the PEIA on September 1, 1995, the fractional portion of the increment payment earned by her during July and August 1995 was miscalculated. Attorney General's Opinion No. 37, dated June 27, 1990 states in part:

"... Considering that W.Va. Code 5-5-2 incremental increase constitutes part of an eligible state employee's regular pay for services previously rendered, any such employee has a statutory right to any accrued pro rata share of that increment owing but not due on his final day of employment. By entitlement to a pro rata share, it is meant that an employee who does not work an entire fiscal year is entitled to a fractional portion of the total increment to which the employee would have been entitled had he/she been employed during the entire fiscal year...."

We noted the employee's fractional portion (two months and one day) of the increment owing for fiscal year 1996 was calculated on four years service. We calculated the employee's fractional portion of increment payment on six years of service (the number of years the employee would have been entitled had the employee been employed during the entire fiscal year). We believe the employee was underpaid \$12.84 on fractional portion of the increment payment because the fractional portion received by the employee in September 1995 was incorrectly accrued on four years rather than on six years of service.

Therefore, during the audit period, we found this employee is due and owed an increment payment of \$108.00 for three years of service in 1993 which the employee did not receive. This amount, however, should be increased by \$72.00 (for the under payments in increment pay of \$36.00 each for fiscal years 1994 and 1995) and by \$12.84 (for the two months and one day of increment earned by the employee in fiscal year 1996 prior to her resignation.) We believe the employee is still owed a total increment amount of \$192.84.

We recommend the PEIA and the Department of Administration Payroll Section comply with Chapter 5, Article 5, Section 2 of the West Virginia Code, as amended, when calculating

the number of years of service for increment payments, and the Attorney General's Opinion No. 37, dated June 27, 1990, when calculating any fractional portion of increment payments. Also, we recommend the PEIA take the necessary steps to compensate the aforementioned employees a total of \$360.00 and \$192.84, respectively, and review other increment payments to insure other employees were properly paid.

Agency's Response

The PEIA will have appropriate corrections and adjustments made when the persons affected are identified. The individuals have been identified to PEIA's management so corrective action can be taken.

Leave Accruals

Based on the employee's number of years of qualifying service with the State of West Virginia, we noted an employee accrued annual leave at a rate other than what the employee was eligible. Sections 15.03 and 15.04 of the Division of Personnel's Administrative Rule state in part:

"15.03. Annual Leave

(a) Amount, Accrual: Except as otherwise noted in this rule, each employee is entitled to annual leave with pay and benefits. The table below lists rates of accrual according to the employee's length of service category....

<u>Length of Service</u> <u>Category</u>	<u>Accrual Rate: Hours</u> <u>Equal To</u>
10 years but less than 15 years of regular employment	1.75 days/month
15 years or more	2.00 days/month

15.04. Sick Leave

(a) Accrual: Except as otherwise provided in this section, each employee shall receive accrued sick leave with pay and benefits. Sick leave is computed on the basis of 1.5 days per month for full-time employees...."

Also, Section 15.03 (b) of the Division of Personnel's

Administrative Rule states:

"Service to Qualify: Qualifying service for length of service category is based on State employment or employment in the classified service."

Based on information in the employee's "Tenure Report - December 1, 1995", received from the Division of Personnel, we calculated the employee's years of service with the State of West Virginia to be 15 years as of September 25, 1991. At that time, the employee became eligible to accrue annual leave at a rate of 16 hours (two days) per month. We noted, however, the employee had been accruing annual leave at a rate of 16 hours per month (two hours per month more than what the employee was eligible) since

January 1, 1990. The reason for this error is not known, but the fact the employee had service with other State and non-state agencies before employment with the PEIA may have contributed to it. We noted that 41 hours of annual leave was incorrectly credited to the employee's balance for the period of January 1, 1990 to September 25, 1991 due to the application of the wrong accrual rate, and accordingly should be deducted from the employee's annual leave balance.

Also, we noted another employee was not credited with five hours of annual leave and six hours of sick leave earned for the period from April 1, 1995 to April 15, 1995, and therefore, the appropriate hours should be added to the employee's leave balances.

We recommend the PEIA comply with Section 15.03 (a) of the Division of Personnel's Administrative Rule when calculating their employees' accrued annual leave. We also recommend the PEIA adjust the two employees' annual and/or sick leave balances as required.

Agency's Response

The PEIA will have appropriate corrections and adjustments made when the persons affected are identified. The individuals have been identified to PEIA's management so corrective action can be taken.

Contractual Services - Inadequate Accounting Records

Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, states in part:

"The head of each agency shall:...

(b) Make and maintain records containing adequate and proper documentation of...essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities."

During our audit of PEIA contracts, we noted the PEIA did not maintain adequate records of the transactions affecting contracts made on behalf of the Agency. While the PEIA maintained records detailing the invoices paid against each contract, they did not maintain contract ledgers on the majority of contracts which would allow them to know the remaining balance of the spending authority pertaining to each contract. This situation increases the probability for the authorized contract amount to be exceeded because billings could be forwarded to the State Auditor for payment even though the contract amount had been reached.

We believe the PEIA is responsible for maintaining the records on all contracts of the Agency. Also, the PEIA is responsible for determining that, when invoices (under a particular contract) are submitted for payment, the remaining unpaid and

unencumbered balance of the particular contract is sufficient to pay these obligations.

We recommend the PEIA comply with Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended.

Agency's Response

The PEIA is developing a ledger system to verify summary balances on contracts. The Auditor's Office currently keeps this information and would notify PEIA if invoicing would exceed the contract balance.

INTERNAL CONTROLS AND ACCOUNTING SYSTEM

As a part of our examination, we reviewed and tested the system of internal accounting control to the extent we considered necessary to evaluate the system as required by generally accepted auditing standards. Under these standards the purpose of such evaluation is to establish a basis for reliance thereon in determining the nature, timing and extent of other auditing procedures that are necessary for expressing an opinion on the financial statements.

The objective of internal accounting control is to provide reasonable, but not absolute, assurance as to the safeguarding of assets against loss from unauthorized use or disposition, and the reliability of financial records for preparing

financial statements and maintaining accountability for assets. The concept of reasonable assurance recognizes that the cost of a system of internal accounting control should not exceed the benefits derived and also recognizes that the evaluation of these factors necessarily requires estimates and judgments by management.

There are inherent limitations that should be recognized in considering the potential effectiveness of any system of internal accounting control. In the performance of most control procedures, errors can result from misunderstanding of instructions, mistakes of judgment, carelessness, or other personal factors. Control procedures whose effectiveness depends upon segregation of duties can be circumvented by collusion. Similarly, control procedures can be circumvented intentionally by management with respect either to the execution and recording of transactions or with respect to the estimates and judgments required in the preparation of financial statements. Further projection of any evaluation of internal accounting control to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions and that the degree of compliance with the procedures may deteriorate.

Our study and evaluation of the system of internal accounting control for the period July 1, 1985 to June 30, 1995,

which was made for the purposes set forth in the first paragraph above, would not necessarily disclose all weaknesses in the system. However, such study and evaluation disclosed conditions that we believe to be weaknesses.

Audits of Prescription Drug Program

We noted the PEIA does not conduct or have conducted under contract regular, timely performance audits regarding the PEIA Prescription Drug Program. Such audits are allowable under Article IX of the contractual agreements between PEIA and First Health Services Corporation which states,

"9.1 Upon reasonable notice to TVCC, duly authorized representatives of PEIA or the State of West Virginia, or independent public accountants or other consultants designated in writing by the PEIA, shall have reasonable access during normal working hours to all records relating to PEIA maintained by TVCC in connection with this Agreement. Such access shall be for the purpose of performing an audit to verify that all applicable procedures are being complied with. Such audit or audits shall be performed in a manner so as not to interfere unreasonably with TVCC's obligations hereunder, and shall be performed at the PEIA's expense."

During fiscal years 1995 and 1994, the dollar amount of prescription claims paid by the PEIA were \$47,915,474.13 and \$40,783,599.36, respectively. Although the dollar amount of prescription claims constitute less than 20% of all moneys paid out

by PEIA during fiscal years 1994 and 1995, the rate of increase in the costs of prescription claims has tended to exceed the rate of increase in costs of medical claims in more recent years. We believe internal controls would be enhanced by the type of audit allowable in the contract for the Prescription Drug Program to determine that the provisions of the contract were being complied with in the honoring of prescription claims. We learned audits of this nature are routinely performed regarding the payment of medical claims.

We recommend the PEIA strengthen internal controls in the Prescription Drug Program by obtaining operational audits on a timely, periodic basis specific to the Prescription Drug Program.

Agency's Response

Although the PEIA has not conducted an audit of First Health, they are required to conduct field audits of retail pharmacies regarding discrepancies and collect any resulting monies. The operational audit for prescription benefits will be part of the new contract arrangement effective January 1, 1998.

Moneys Deposited To Wrong Funds

Our audit of cash receipts showed several instances where moneys were deposited by PEIA staff into incorrect accounts. We noted the majority of the funds deposited in error were incorrectly

deposited into the Administrative Expense Fund - Fund Number 2181. The collections into the Administrative Expense Fund are derived from a fee assessed the participating employers for each of their participating employees as of July 1, of each fiscal year. After discovery of these errors, we reviewed all deposits made by PEIA during the period July 1, 1993 through December 31, 1995. This review revealed the following deposits which were made to incorrect funds, the amount of the deposit, the incorrect fund into which the moneys were placed and the correct fund into which these moneys should have been placed:

<u>Date of Deposit</u>	<u>FIMS Deposit No.</u>	<u>Amount of Deposit</u>	<u>Incorrect Fund</u>	<u>Correct Fund</u>
<u>Fund 2181 - ADMINISTRATIVE EXPENSE FUND</u>				
<u>Fiscal Year 1994</u>				
11/10/93	52143	\$ 16,810.34	2181	2180
11/30/93	53900	38,695.60	2181	2180
01/10/94	74808	10,653.32	2181	2182
03/14/94	57298	40,396.60	2181	2180
06/16/94	109685	10,480.45	2181	2182
06/22/94	111013	<u>89,851.32</u>	2181	2180
		<u>\$206,887.63</u>		
<u>Fiscal Year 1995</u>				
03/20/95	115264	\$ 272.96	2181	2182
03/20/95	115297	272.96	2181	2182
04/18/95	119671	272.96	2181	2182
05/26/95	125004	272.93	2181	2182
06/15/95	128548	<u>272.96</u>	2181	2182
		<u>\$1,364.80</u>		

Fiscal Year 1995

Fiscal Year 1996 (Through December 31, 1995)

07/07/95	204906	\$ 151.52	2181	2180
08/18/95	216038	11,191.52	2181	2182
09/06/95	139387	7,247.32	2181	2180
09/13/95	140228	17,423.68	2181	2180
09/21/95	141445	6,586.80	2181	2180
10/23/95	232038	19,436.36	2181	2182
11/08/95	236211	17,494.51	2181	2182
11/27/95	239402	5,213.29	2181	2182
12/27/95	153279	33,811.78	2181	2180
12/28/95	246550	<u>4,733.72</u>	2181	2182
		<u>123,290.50</u>		
		<u>\$331,542.93</u>		

<u>Date of Deposit</u>	<u>FIMS Deposit No.</u>	<u>Amount of Deposit</u>	<u>Incorrect Fund</u>	<u>Correct Fund</u>
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FUND 2182 - OPTIONAL INSURANCE FUND

Fiscal Year 1994

06/22/94	111013	\$ 220.00	2182	2181
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Fiscal Year 1996 (Through December 31, 1995)

08/18/95	216038	\$40,200.00	2182	2181
10/23/95	232038	520.00	2182	2181
11/08/95	236211	380.00	2182	2181
11/27/95	239402	140.00	2182	2181
12/28/95	246550	<u>40.00</u>	2182	2181
		<u>41,280.00</u>		
		<u>\$41,500.00</u>		

FUND 2183 - NON-STATE HEALTH CLAIMS FUND

06/22/94	111013	<u>\$15,769.43</u>	2183	2182
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Of the \$331,542.93 incorrectly deposited in the Administrative Expense Fund - Fund Number 2181, we believe \$250,974.96 belongs to the Basic Insurance Fund - Fund Number 2180 and \$80,567.97 belongs to the Optional Insurance Fund - Fund Number 2182. Also, we believe \$41,500.00 incorrectly deposited in the Optional Insurance Fund - Fund Number 2182 belongs to the Administrative Expense Fund - Fund Number 2181. Lastly, \$15,769.43 placed in the Non-State Health Claims Fund - Fund Number 2183 actually belongs to the Optional Insurance Fund - Fund Number 2182. We believe these improper deposits occurred because the PEIA does not have sufficient review procedures in place to detect the incorrect deposit of funds.

We recommend the PEIA strengthen internal controls in the area of collection, recording and depositing of receipts. Also, we recommend the PEIA transfer \$250,974.76 from the Administrative Expense Fund to the Basic Insurance Fund, \$39,067.97 from the Administrative Expense Fund to the Optional Insurance Fund and \$15,769.43 from the Non-State Health Claims Fund to the Optional Insurance Fund to correct deposit errors.

Agency's Response

The PEIA will work with the Auditor's Office to reduce the number of accounts to minimize deposit errors. The PEIA will

also work with agencies to improve deposit activity. Internal controls will be addressed in PEIA as part of changes to our Policy and Procedure manual changes to accommodate new systems procedures.

Payroll/Overtime

During our test of overtime, we noted several of the PEIA's "Request to Pay Overtime" forms submitted to the Department of Administration's Payroll Section for payment contained errors as to the number of hours to be paid at straight time and/or time and one-half. This situation became apparent when we were not able to reconcile the amounts the employees were paid to the amount which the PEIA staff had calculated, based on the hours worked as reflected on the "Request to Pay Overtime" forms. Later, we learned these errors were detected and corrected by the Payroll Section of the West Virginia Department of Administration.

As stated previously in our "Compliance Matters" section of this report, in the finding entitled "Absence of Time Sheets", the PEIA did not require its employees to maintain daily time sheets during the audit period. Also, we learned from a conversation with PEIA personnel, leave slips were reviewed and allowance was made for holidays being non-countable time for the purpose of overtime prior to the calculation of extra hours worked. If the hours stated on the "Request for Overtime Pay" forms had not

been verified by Administration's Payroll Section, the affected employees would have been paid amounts for which they were not entitled in violation of State law. We believe the use of time sheets and more effective review on the part of PEIA in regard to payroll matters prior to their submission to the Department of Administration Payroll Section for processing would have significantly reduced the errors which occurred.

We recommend the PEIA strengthen internal controls in the area of payroll.

Agency's Response

The PEIA in conjunction with the Payroll Section of the West Virginia Department of Administration will develop a policy and procedure for payroll reconciliation in PEIA prior to submission to the Payroll Section.

INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of appropriations/cash receipts, expenditures/disbursements and changes in fund balances of the West Virginia Public Employees Insurance Agency for the years ended June 30, 1995 and June 30, 1994. The financial statement is the responsibility of the management of the West Virginia Public Employees Insurance Agency. Our responsibility is to express an opinion on the financial statement based on our audit.

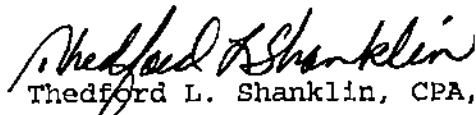
We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note A, the financial statement was prepared on the cash and modified cash basis of accounting, which are comprehensive bases of accounting other than generally accepted accounting principle.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the appropriations and expenditures and revenues collected and expenses paid of the West Virginia Public Employees Insurance Agency for the years ended June 30, 1995 and June 30, 1994, on the bases of accounting described in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for the purpose of additional analysis and is not a required part of the basic financial statement. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statement and, in our opinion, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectfully submitted,


Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

January 11, 1996

Auditors: Michael E. Sizemore, CPA, Supervisor
Charles L. Lunsford, Auditor-in-Charge
Peter J. Maruish, Jr., CPA-Apprentice

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

STATEMENT OF APPROPRIATIONS/CASH RECEIPTS,

EXPENDITURES/DISBURSEMENTS AND CHANGES IN FUND BALANCES

	<u>Year Ended June 30, 1995</u>		
	<u>General Revenue</u>	<u>Special Revenue</u>	<u>Combined Totals</u>
Appropriations/Cash Receipts:			
Appropriations	\$0.00	\$ 0.00	\$ 0.00
Health and Life Insurance Premiums	0.00	283,874,072.53	283,874,072.53
Administrative Expense Fees	<u>0.00</u>	<u>488,632.83</u>	<u>488,632.83</u>
	0.00	284,362,705.36	284,362,705.36
Expenditures/Disbursements:			
Personal Services	0.00	757,093.23	757,093.23
Employee Benefits	0.00	31,327,084.28	31,327,084.28
Current Expenses	0.00	15,118,983.15	15,118,983.15
Repairs and Alterations	0.00	1,123.21	1,123.21
Equipment	0.00	8,680.58	8,680.58
Payment of Claims	<u>0.00</u>	<u>249,466,988.07</u>	<u>249,466,988.07</u>
	<u>0.00</u>	<u>296,679,952.52</u>	<u>296,679,952.52</u>
Appropriations/Cash Receipts Over (Under) Expenditures/Disbursements	0.00	(12,317,247.16)	(12,317,247.16)
Beginning Balance	0.00	62,271,216.89	62,271,216.89
Transfers to Basic Insurance Premium Fund - Fund 2180-640	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>\$0.00</u>	<u>\$ 49,953,969.73</u>	<u>\$ 49,953,969.73</u>

See Notes to Financial Statements

Year Ended June 30, 1994

<u>General Revenue</u>	<u>Special Revenue</u>	<u>Combined Totals</u>
\$970,000.00	\$ 0.00	\$ 970,000.00
0.00	276,865,976.13	276,865,976.13
<u>0.00</u>	<u>3,409,271.70</u>	<u>3,409,271.70</u>
970,000.00	280,275,247.83	281,245,247.83
0.00	707,151.22	707,151.22
0.00	11,119,322.61	11,119,322.61
0.00	14,395,587.58	14,395,587.58
0.00	3,578.74	3,578.74
0.00	69,632.00	69,632.00
<u>0.00</u>	<u>240,548,783.22</u>	<u>240,548,783.22</u>
<u>0.00</u>	<u>266,844,055.37</u>	<u>266,844,055.37</u>
970,000.00	13,431,192.46	14,401,192.46
0.00	47,870,024.43	47,870,024.43
<u>(970,000.00)</u>	<u>970,000.00</u>	<u>0.00</u>
<u>\$ 0.00</u>	<u>\$ 62,271,216.89</u>	<u>\$ 62,271,216.89</u>

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

NOTES TO FINANCIAL STATEMENT

Note A - Accounting Policies

Accounting Method: The modified cash basis of accounting is followed for the General Revenue Fund. The major modification from the cash basis is that a 31 day carry-over period is provided at the end of each fiscal year for the payment of obligations incurred in that year. All balances of the General Revenue Fund appropriations for each fiscal year expire on the last day of such fiscal year and revert to the unappropriated surplus of the fund from which the appropriations were made, except that expenditures encumbered prior to the end of the fiscal year may be paid up to 31 days after the fiscal year-end; however, appropriations for buildings and land remain in effect until three years after the passage of the act by which such appropriations were made. The cash basis of accounting is followed by all other funds. Therefore, certain revenues and the related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

Expenditures paid after June 30 in the carry-over period and expirations were as follows:

	<u>EXPENDITURES</u>		<u>EXPIRATIONS</u>	
	<u>PAID AFTER JUNE 30.</u>		<u>JULY 31.</u>	<u>JULY 31.</u>
	<u>1995</u>	<u>1994</u>	<u>1995</u>	<u>1994</u>
Public Employees Insurance				
Agency Fund	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>

Combined Totals: The combined totals contain the totals of similar accounts of the various funds. Since the appropriations and cash receipts of certain funds are restricted by various laws, rules and regulations, the totaling of the accounts is for memorandum purposes only and does not indicate that the combined totals are

available in any manner other than that provided by such laws, rules and regulations.

Note B - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employee contributions are 4.5% of their compensation and employees are vested under certain circumstances. The West Virginia Public Employees Insurance Agency matches contributions at 9.5% of the compensation on which the employee made contributions. The West Virginia Public Employees Insurance Agency's pension expenditures were as follows:

	<u>YEAR ENDED JUNE 30,</u>	
	<u>1995</u>	<u>1994</u>
Special Revenue	<u>\$70,751.76</u>	<u>\$66,944.22</u>

SUPPLEMENTAL INFORMATION

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

STATEMENT OF APPROPRIATIONS AND EXPENDITURES

GENERAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1995</u>	<u>1994</u>
<u>Public Employees Insurance Agency Fund -</u> <u>Fund 0200-129 (Account 6150-37)</u>		
Appropriations	\$0.00	\$970,000.00
Expenditures:		
Transfer to Basic Insurance Premium Fund - Fund 2180-640 (Account 8265-05)	<u>0.00</u>	<u>970,000.00</u>
	0.00	0.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

	<u>Year Ended June 30,</u>	
	<u>1995</u>	<u>1994</u>
<u>Basic Insurance Premium Fund -</u>		
<u>Fund 2180-640 (Account 8265-05)</u>		
Cash Receipts:		
Health Insurance Premiums	\$253,699,502.06	\$249,261,218.81
Transfers from Public Employees Insurance Agency Fund - Fund 0200-129	0.00	970,000.00
Transfers from Non-State Health Claims Fund Fund 2183-640 (Account 8265-23)	<u>20,000,000.00</u>	<u>0.00</u>
	273,699,502.06	250,231,218.81
Disbursements:		
Employee Benefits (Insurance Premiums)	22,553,719.52	4,089,589.16
Current Expenses	14,086,683.02	13,815,687.24
Payment of Claims	<u>249,466,988.07</u>	<u>240,548,783.22</u>
	<u>286,107,390.61</u>	<u>258,454,059.62</u>
Cash Receipts (Under) Disbursements	(12,407,888.55)	(8,222,840.81)
Beginning Balance	<u>18,849,308.71</u>	<u>27,072,149.52</u>
Ending Balance	<u>\$ 6,441,420.16</u>	<u>\$ 18,849,308.71</u>

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

	<u>Year Ended June 30,</u>	
	<u>1995</u>	<u>1994</u>
<u>Administrative Expense Fund -</u>		
<u>Fund 2181-640 (Account 8265-06)</u>		
Cash Receipts:		
Administrative Expense Fees	\$ 488,632.83	\$3,409,271.70
Disbursements:		
Personal Services	757,093.23	707,151.22
Employee Benefits	229,096.30	226,468.67
Current Expenses	1,032,300.13	579,900.34
Repairs and Alterations	1,123.21	3,578.74
Equipment	<u>8,680.58</u>	<u>69,632.00</u>
	<u>2,028,293.45</u>	<u>1,586,730.97</u>
Cash Receipts (Under) Over Disbursements	(1,539,660.62)	1,822,540.73
Beginning Balance	<u>1,965,227.78</u>	<u>142,687.05</u>
Ending Balance	<u>\$ 425,567.16</u>	<u>\$1,965,227.78</u>

WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY

STATEMENTS OF CASH RECEIPTS, DISBURSEMENTS

AND CHANGES IN CASH BALANCE

	<u>Year Ended June 30,</u>	
	<u>1995</u>	<u>1994</u>
<u>Optional Life Insurance Premium Fund-</u>		
<u>Fund 2182-640 (Account 8265-07)</u>		
Cash Receipts:		
Life Insurance Premiums	\$7,752,315.35	\$7,326,507.96
Disbursements:		
Employee Benefits (Insurance Premiums)	<u>8,544,268.46</u>	<u>6,803,264.78</u>
Cash Receipts (Under) Over Disbursements	(791,953.11)	523,243.18
Beginning Balance	<u>1,500,184.98</u>	<u>976,941.80</u>
Ending Balance	<u>\$ 708,231.87</u>	<u>\$1,500,184.98</u>
<u>Non-State Health Claims Fund</u>		
<u>Fund 2183-640 (Account 8265-23)</u>		
Cash Receipts:		
Health Insurance Premiums (Non-State)	\$22,422,255.12	\$20,278,249.36
Disbursements:		
Transfers to Basic Insurance Premium Fund - Fund 2180-640 (Account 8265-05)	<u>20,000,000.00</u>	<u>0.00</u>
Cash Receipts Over Disbursements	2,422,255.12	20,278,249.36
Beginning Balance	<u>39,956,495.42</u>	<u>19,678,246.06</u>
Ending Balance	<u>\$42,378,750.54</u>	<u>\$39,956,495.42</u>

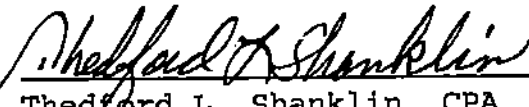
STATE OF WEST VIRGINIA

OFFICE OF LEGISLATIVE AUDITOR, TO WIT:

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

Given under my hand this 8th day of June,

1997.



Thedford L. Shanklin, CPA, Director
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Public Employees Insurance Agency; Governor; Attorney General; and, State Auditor.