

STATE OF WEST VIRGINIA

AUDIT REPORT

OF

**WEST VIRGINIA
DIVISION OF LABOR**

FOR THE PERIOD

JULY 1, 1994 - JUNE 30, 1997



OFFICE OF THE LEGISLATIVE AUDITOR

CAPITOL BUILDING

CHARLESTON, WEST VIRGINIA 25305-0610

WEST VIRGINIA DIVISION OF LABOR

FOR THE PERIOD

JULY 1, 1994 - JUNE 30, 1997

WEST VIRGINIA LEGISLATURE
Joint Committee on Government and Finance

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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 Division of Labor.

Our examination covers the period July 1, 1994 through June 30, 1997. The results of this examination are set forth on the following pages of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Theford L. Shanklin".

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

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WEST VIRGINIA DIVISION OF LABOR

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WEST VIRGINIA DIVISION OF LABOR

EXIT CONFERENCE

We held an exit conference on April, 15, 1999 with the Commissioner and other representatives of the West Virginia Division of Labor and all findings were reviewed and discussed. The Division's responses are included in bold and italics in the Summary of Findings and Responses and after our findings in the General Remarks section of this report.

WEST VIRGINIA DIVISION OF LABOR

INTRODUCTION

The Division of Labor was created “to protect the lives and health, and to promote the prosperity” of workers in West Virginia. The State Bureau of Labor was created by an Act of the Legislature in 1889 and renamed the Department of Labor 1915. In 1989, under the reorganization of the Executive Branch of State Government, Chapter 3, Acts of the 1989 Legislature, the Department of Labor became the Division of Labor under the Department of Commerce, Labor and Environmental Resources. The Division of Labor is currently governed by Chapter 21, Articles 1, 1B, 3, 3B, 3C, 5, 5A, 5C, 9, 11, and 12, and Chapter 47, Articles 1, 1A, 5, and 11B of the West Virginia Code, as amended. The Division is also governed by Legislative Rules Title 28, Series 1 and 2 and Title 42, Series 1 through 21.

The Division of Labor provides services through five sections. These sections and their respective duties are presented below:

Wage and Hour Section:

1. Licenses contractors doing business in West Virginia.
2. Secures employer’s bond for wage and benefits in mining and construction, and transportation in mineral industries.
3. Assures compliance with the state minimum wage law by a business where six or more persons are employed and the gross business is \$500,000 or less.
4. Enforces statutes regarding the maximum hours worked before overtime is due.
5. Collects data and issues the fair minimum wage rates to be paid in each county for highway construction, heavy construction, and building construction.
6. Certifies the licensing of all private employment agencies.
7. Approves all age certificates and work permits issued to minors by school authorities.

8. Mediates labor disputes when requested by both parties.
9. Assists in the collection of unpaid wages.
10. Tests polygraph examiner applicants and issues state licenses for practice in West Virginia.

Weights and Measures Section:

1. Operate a measurement laboratory/calibration station.
2. Tests and approves all scales used in weighing, ranging from small grocery store scales to heavy truck and livestock scales.
3. Tests and approves measuring devices, such as gasoline pumps, meters, and measure-graphs.
4. Tests and calibrates tank trucks and farm milk tanks.
5. Inspects and tests motor fuels for quality.
6. Inspects commodities in stores to ensure fair packaging and labeling.
7. Receives and investigates complaints about short-weigh or short-measure products.
8. Issues licenses to manufacturers and sellers of article of bedding and upholstered furniture.
9. Inspects establishments selling articles of bedding and upholstered furniture.
10. Issues license to businesses for closeout sales, fire sales, and defunct business sales.
11. Certifies weights and measures repair persons.

Safety and Boiler Section:

1. Conducts on-site consultations to provide employers with free analysis and advice on eliminating work place hazards and in understanding requirements of the Occupational Safety and Health Act. This service is funded by a grant from the United States Department of Labor, and no fee is charged to the employer. No citations or penalties are issued for violations identified.
2. Enforces the Steam Boiler Inspections Law, which requires boilers of 15 or more pounds pressure per square inch to be inspected at least annually and obtain a state-issued permit to operate.

3. Enforces the State Occupational Safety and Health Act, which provides work place safety and health for most State employees.

Elevator Safety Section:

1. Performs safety inspection on all elevators in West Virginia available for public use.
2. Issues permits to operate an elevator.
3. Approves design plans for relocation of elevators.
4. Provides West Virginia examination and issuance of a certificate of competency to persons desiring to become elevator inspectors.
5. Works with counties and municipalities on functions related to the elevator safety law.
6. Performs safety inspections on all chair lifts and dumb waiters in the State.
7. Works with companies servicing elevators in West Virginia for code compliance.

Manufactured Housing and Amusement Rides:

1. Enforces federal HUD construction and reporting standards for manufactured homes delivered to West Virginia for retail sale.
2. Licenses all dealers, installation/repair contractors, and manufacturers who conduct business in West Virginia.
3. Inspects manufactured home for compliance with both Federal and State code requirements for construction and safety.
4. Responds to consumer complaints through code enforcement and a mandated administrative relief process.

5. Maintains a cash trust designated to compensate a consumer upon the exhaustion of all other legal remedies.
6. Inspects all amusement rides and amusement attractions for safety and health when such devices are available for public use.
7. Issues certificates to operate amusement devices.
8. Maintains records on each amusement device operating in West Virginia with particular emphasis on liability insurance requirements.
9. Inspect tramways.

WEST VIRGINIA DIVISION OF LABOR
ADMINISTRATIVE OFFICERS AND STAFF

The present Division of Labor staff consists of 104 employees. All employees are covered by the West Virginia Division of Personnel except the Commissioner, Deputy Commissioner, Fiscal Officer, Executive Secretary, and Section Directors.

During the period covered by the audit, the Division was under the following commissioners:

Shelby LearyJune 1, 1994 - March 11, 1997
Steven A. Allred.....March 12, 1997 - Present

The Section Directors as of June 30, 1997 were as follows:

Mitchell W. Samples..... Director of Administration
Robert L. Goff..... Director of Wage and Hour
Karl H. Angell, Jr..... Director of Weights and Measures
Jennifer W. Burgess Director of Safety and Boiler and
Elevator Safety
Frances Cook Director of Manufactured Housing

WEST VIRGINIA DIVISION OF LABOR
SUMMARY OF FINDINGS AND RESPONSES

Lack of Effective System of Internal Controls

1. During the course of our post audit, it became apparent to us, based on the observed violations of the West Virginia Code and other rules and regulations, the Division of Labor did not have an effective system of internal controls in place to insure compliance with applicable State laws, rules and regulations. We believe an effective system of internal controls acts to alert management to such violations at an earlier date, thereby allowing more timely corrective action.

Agency's Response

No response by the agency. (See pages 23-27)

Accounting For Computer Components

2. We noted \$47,496.81 of various computer hardware and software components purchased between August 26, 1996 and June 27, 1997; however, no repair orders or other documentation was available detailing how these components were used. Accordingly, we could not determine the components were actually installed in equipment owned by the State for the purpose of conducting official State business.

Agency's Response

At this time, any purchases of computer components are listed as received and listed as to their final destination. (See pages 27 and 28)

Contractor Licensing and License Renewals

3. Our examination of the Contractor Licensing Program showed 38 contractors discovered either by us or Division of Labor personnel who were issued licenses, but were not statutorily qualified to hold them. Based on the results of our testing and projecting the results over the entire population of 22,169 contractor licenses issued as of June 30, 1997, the Division of Labor has issued licenses and/or annual renewals to as many as 3,695 ineligible contractors.

Agency's Response

The Board requires valid documentation of work performed in the year proceeding October 1, 1991. (See pages 29-33)

Evidence of Statutory Compliance

4. The Division of Labor does not normally retain evidence showing the required verification before granting contractor licenses or renewals that the contractor is in good standing with respect to their employer payment obligations due various State agencies.

Agency's Response

All renewed applications are verified electronically. The DOL has taken under advisement, a recommendation to document all compliance verifications and a "check-off" type verification document is being drafted. (See pages 34 and 35)

“GrandFathered” Contractors

5. By law, contractors meeting specified criteria as measured on **September 30, 1991** were allowed to become a licensed contractor without passing the licensing examination. We found the Division of Labor has issued 489 such licenses between October 1, 1993 and September 3, 1998, including, 38 licenses between July 1, 1997 and September 3, 1998.

Agency's Response

The DOL will continue to seek legislation eliminating the grandfathering provision of the Contractor Licensing Act. (See pages 35-37)

Contractor Licensing Files

6. Our last audit of the Division of Labor for the period July 1, 1986 through June 30, 1994 projected as many as 270 contractor licensing files could be missing. During our current audit, Division of Labor personnel provided us with the names of four “active” contractors whose files were missing and not available for review indicating the problem of some missing or misplaced files continues.

Agency's Response

The DOL has taken steps to locate missing files and sign-in/sign-out procedures have been implemented to prevent future loss of files. (See pages 37 and 38)

Contractor Licensing - Monetary Fines

7. We noted \$292,600.00 in “cease and desist” monetary fines assessed by the Contractor Licensing Board, some of which were assessed as early as December 1991, remain uncollected as of June 30, 1998.

Agency's Response

Without the means or authority to collect, the Board has defined collection action to the Office of the Attorney General. (See pages 39 and 40)

Steam Boiler Inspections

8. Our audit showed 11 boiler inspections were not completed until after the expiration of the prior year's inspection certificate and ranged from five days to 658 days late. Annual inspections are designed in part to decrease the risk of any boiler owner operating an unsafe unit.

Agency's Response

The DOL agrees with the finding. The problem resulted from the transition from a manual scheduling system to a fully automated scheduling system.

This problem has been corrected by computerization. (See pages 40 and 41)

Boiler Extension Certificates

9. Also, the Boiler Safety Program audit revealed three boilers were operated with two consecutive extension permits; however, the Division of Labor's rules and regulations only allow for one 60-day extension.

Agency's Response

The DOL agrees with the finding. The problem resulted from the transition from a manual scheduling system to a fully automated scheduling system.

This problem has been corrected by computerization. (See page 41)

Boiler Safety Fees

10. Fees collected for Boiler Safety extension permits, boiler inspections and operating certificates were not received timely in all cases by the Division of Labor and the accounting system used by the Division for recording these fees was inadequate.

Agency's Response

The DOL agrees with the finding. Again, this problem was the result of a manual accounting system which has now been fully automated.

This problem has been corrected by computerization and includes automated invoicing, as well as follow-up invoicing where delinquencies occur. (See pages 41 and 42)

Extension Permit Approvals

11. We noted four of the 23 extension permits examined by us did not have the required insurance company approval granting the requested extension. Projecting the results of our work over the entire population of 62 extension permits issued between July 1, 1995 and June 30, 1997 indicates the Division of Labor could have issued as many as 11 extension permits where no insurance company approval was filed with the Division of Labor.

Agency's Response

The DOL will investigate and take corrective action. (See pages 42 and 43)

Reimbursements from Other Accounts

12. The Division of Labor pays all employees from the State General Revenue Fund and, subsequently, makes reimbursements from various special revenue accounts based on

a pre-determined sharing percentage. However, the Division did not accumulate information during the audit period for the purpose of determining whether the sharing percentage being used was appropriate, nor were all accounts properly balanced at year-end through the making of needed additional reimbursements, if applicable.

Agency's Response

The DOL agrees with the importance of more frequent estimate reviews. Presently, the estimates are reviewed twice annually. (See pages 43 and 44)

Excess Payments

13. The Division of Labor included lunch periods as time worked in calculating overtime payments to employees in violation of their own rules and regulations at a projected cost of \$1,966.30 during the period July 1, 1995 - June 30, 1997.

Agency's Response

Division of Personnel regulations parallel the FLSA; therefore, if overtime payments are acceptable to the Division of Personnel, the DOL feels as though our methods of payment are correct. (See pages 44-46)

Overtime Payments Due Employee

14. We located an employee who we believe was due \$118.58 for 1.5 hours of overtime worked during the week ended December 13, 1996 and 6 hours of overtime worked during the week ended December 20, 1996.

Agency's Response

No response by the agency. (See pages 46 and 47)

Payment Before Services Were Rendered

15. On the other hand, we also noted one other employee who failed to provide a full week's work on two different occasions resulting in their being overpaid for five hours at a cost of \$74.54.

Agency's Response

No response by the agency. (See page 47)

Employee Emoluments

16. We found \$6,520.07 of items including lapel pins, men's and women's watches, tote bags, windshield ice scrapers, custom picture and photograph framing and floral arrangements that appeared to have been destined for personal use.

Agency's Response

Current administration policy strictly prohibits the purchase of goods for personal use by employees. (See pages 47-49)

Travel

17. Travel expenses totaling \$12,254.39 were paid to an employee when, according to Division of Labor travel records, 73% of the employee's duties were performed at the Division's headquarters in Charleston.

Also, we noted the former Commissioner of Labor received \$214.97 in travel expenses for a trip that was extended from Wrightsville Beach, North Carolina to Myrtle Beach, South Carolina during the period July 23 - 26, 1995. The extended portion of this trip does not appear to have been related to State business.

Agency's Response

All DOL field staff have their home residence designated as their official headquarters. The employee in question designated Bluefield, WV as his official headquarters. For an extended period of time, the previous Commissioner required this individual to work out of the Charleston office. This was a temporary assignment, therefore the official headquarters was not changed.

The Division believes this was proper.

...Former Commissioner charged \$214.97 to continue a trip from Wrightsville Beach, NC to Myrtle Beach, SC when no conference activities were held at Myrtle Beach, SC...

The Division agrees that this charge was improper. The DOL has requested that the former Commissioner make refund of the \$214.97. (See pages 49-52)

Fees Charged Without Statutory Authority

18. Our post audit revealed four instances where the Division of Labor is providing services and collecting revenues not specifically authorized by the West Virginia Code or the Division's legislatively approved rules and regulations.

Agency's Response

The Division has made attempts to pass legislation to clarify this issue, but have been advised that the rule is sufficient and legislation is not necessary. (See pages 52-55)

Unauthorized Expenditures

19. We noted the Division had incorrectly paid \$16,213.57 for contract temporary employees and travel from the Contractor Licensing Fund which benefitted the Weights and Measures, Wage and Hour, and Elevator Safety sections during the 1997 fiscal year.

Agency's Response

Current policies and procedures will prevent the re-occurrence of this problem.

(See pages 56-58)

Duplicate Payments and Refunds

20. The Division of Labor processed nine duplicate payments and two duplicate revenue refunds totaling \$3,942.00 for which the state did not receive any additional benefit.

Agency's Response

Refunds and deposits correcting the duplication have been located and verified for five of the nine. The remaining four are purchases by the Weights and Measures laboratory and must be researched with that office. (See pages 58-61)

Inactive Accounts

21. During our audit, we were told that two special revenue accounts have not been utilized since 1986. The Special Equipment Fund and the Insurance Proceeds for Stolen Truck Fund had June 30, 1997 balances of \$223.11 and \$5,798.54 respectively.

Agency's Response

The DOL will again attempt to close the accounts. (See pages 61 and 62)

Annual Increment Calculations

22. Based on our calculations, the Division of Labor underpaid a former employee's estate a total of \$181.29 in annual increment.

Agency's Response

The Division of Personnel promulgates the regulations governing the calculation of partial year increment pay. The DOL adhered to those regulations as required of all state agencies, and payment, as with payroll was certified by the Division of Personnel.

It is the opinion of the DOL that the payment calculation was proper. (See pages 62 and 63)

Overpayment of Fees

23. We noted two contractors were charged \$100.00 late fees even though the Division of Labor's legislatively approved Rules and Regulations defined the annual renewal fees as being received on time.

Agency's Response

The DOL does not deny this finding. With appropriate documentation and verification, the DOL will insure that refunds have or will be made. (See pages 63 and 64)

Incomplete Going Out of Business Inventory Lists Submitted

24. Three companies submitted indemnity bonds and were licensed to conduct going out of business sales although the required total retail value of inventory used to calculate the bond was omitted.

Agency's Response

The solution here was to add all the sub-totals and arrive at a total figure. Again, the problem will be resolved with the re-design of the application form. (See pages 64-66)

WEST VIRGINIA DIVISION OF LABOR

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the West Virginia Division of Labor. The audit covered the period July 1, 1994 through June 30, 1997.

GENERAL REVENUE ACCOUNTS

Expenditures required for the general operations of the West Virginia Division of Labor were made from the following appropriated accounts:

<u>FUND NUMBER</u>	<u>DESCRIPTION</u>
0260-001	Personal Services
0260-004	Annual Increment
0260-010	Employee Benefits
0260-099	Unclassified
0260-483	Weights and Measures
0260-592	Departmental Fees

SPECIAL REVENUE ACCOUNTS

During the audit period, the West Virginia Division of Labor maintained 11 special revenue accounts. These accounts represent funds to account for the proceeds of specific activities as required by law or administrative regulations. These funds were deposited with the State Treasurer in the following special revenue accounts:

<u>Fund Number</u>	<u>Description</u>
3180-099	Wage Payment/Collection Account Escrow - Unclassified.
3180-640	Wage Payment/Collection Account Escrow - Unclassified - Departmental and Misc. Income.
3181-099	Wage Payment Bond Assurance Investment - Unclassified
3181-640	Wage Payment Bond Assurance Investment - Unclassified
3182-099	Boiler Inspection Fees Fund - Unclassified.
3182-640	Boiler Inspection Fees Fund - Departmental and Misc. Income.
3183-099	Special Equipment Fund - Unclassified.
3183-640	Special Equipment Fund - Departmental and Misc. Income.
3184-099	Insurance Proceeds for Stolen Truck - Unclassified.
3184-640	Insurance Proceeds for Stolen Truck - Departmental and Misc. Income.
3185-099	WV/MFTD. House Construction/SAF Stds. Account - Unclassified.

3185-640	WV/MFTD. House Construction/SAF Stds. Account Departmental and Misc. Income.
3186-099	Contractor Licensing Board Fund - Unclassified.
3186-640	Contractor Licensing Board Fund - Departmental & Misc. Income.
3187-001	Appropriated Contractor Licensing Board Fund -Personal Services.
3187-004	Appropriated Contractor Licensing Board Fund - Annual Increment.
3187-010	Appropriated Contractor Licensing Board Fund - Employee Benefits.
3187-099	Appropriated Contractor Licensing Board Fund - Unclassified.
3187-640	Contractor Licensing Board - Departmental & Misc. Income.
3188-001	Elevator Safety Fund – Personal Services.
3188-004	Elevator Safety Fund - Annual Increment.
3188-010	Elevator Safety Fund - Employee Benefits.
3188-099	Elevator Safety Fund - Unclassified.
3188-640	Elevator Safety Fund - Departmental & Misc. Income.

3189-099	Elevator Safety Act - Transfer Fund - Unclassified.
3189-640	Elevator Safety Act - Transfer Fund - Departmental Fees & Misc. Income.
3190-099	Manufactured Housing Trust Recovery Fund - Unclassified.
3190-640	Manufactured Housing Trust Recovery Fund - Departmental & Misc. Income.

COMPLIANCE MATTERS

Chapter 21, Articles 1 and 12 and Chapter 47, Articles 1, 1A, 5, and 11B of the West Virginia Code and Legislative Rules Title 28, Series 1 and 2 and Title 42, Series 1 through 21 generally governs the West Virginia Division of Labor. Title 28 of these Legislative Rules governs the West Virginia Contractor Licensing Board and Title 42 of these Legislative Rules governs all other functions of the Division of Labor. We tested applicable sections of the above plus general State regulations, and other applicable sections of the West Virginia Code as they pertain to financial matters. Our findings are discussed below:

Lack of Effective System of Internal Controls

During the course of our post audit, it became apparent to us, based on the observed violations of the West Virginia Code and other rules and regulations which governed the West Virginia

Division of Labor, the Division of Labor did not have an effective system of internal controls in place to insure compliance with applicable State laws, rules and regulations.

Chapter 5A, Article 8, Section 9(b) of the Wet Virginia Code, as amended, states in part,

“The head of each agency shall:...

(b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and 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. . . .”

This law requires the agency head to have in place an effective system of internal controls in the form of policies and procedures set up to insure the agency operates in compliance with the laws, rules and regulations which govern it.

During our audit of the Division of Labor, we found the following violations of State laws or other rules and regulations: **(1)**. The Division of Labor expended \$47,496.81 for various computer components, but the Division was unable to tell us which machines were repaired or upgraded using these components. **(2)**. At least 38 individuals received contractor’s licenses for which they were not statutorily qualified. Based on the results of our work, we project the Division of Labor has issued licenses and/or annual renewals to as many as 3,695 ineligible contractors. Also, the Division has continued to grant individuals a contractor license

based on “Grandfathering provisions” even though the effective date of these provisions in State law was September 30, 1991. We found 489 licenses granted in this fashion since October 1, 1993, including 38 such licenses issued between July 1, 1997 and September 3, 1998. In addition, conditions noted in our prior audit where contractor licensing files for individuals were missing continues with four such instances of missing files in the current audit period. Also, the Division of Labor failed to retain documentation that contractors were meeting their employer payment obligations due various State agencies in at least 87% of the contractor files reviewed by us. Lastly, \$292,600.00 in “cease and desist” monetary fines assessed by the Contractor Licensing Board remained uncollected as of June 30, 1998, some of the fines were assessed as early as December 1991; (3). We noted 11 boiler inspections were not completed prior to the expiration of the prior year’s inspection certificate. The boilers were operated without the required inspection anywhere from five days to 658 days. Also, three boilers were operated with two consecutive extension permits totaling 120 days rather than one 60-day extension as provided by Division of Labor rules and regulations. Fees for boiler certificates and extension permits were not always collected in a timely fashion and the Division of Labor’s method of accounting for such uncollected fees was inadequate. Lastly, we noted four of 23 extension permits we examined did not have the required insurance

company approval granting the requested extension; (4). We located at least \$16,213.57 in payments for contract temporary employees and employee travel paid from the Contractor Licensing Fund which benefitted the Weights and Measures, Wage and Hour and Elevator Safety sections. Also, the Division pays all employee salaries from the State General Revenue Fund and then makes reimbursements based on estimates. We found the Division does not check the accuracy of these estimates possibly leading to cost shifting among the Division's accounts; (5). The Division purchased lapel pins, watches, tote bags, ice scrappers, custom picture frames and floral arrangements totaling \$6,520.07, some of which were given to employees for personal use; (6). One employee reimbursed \$12,254.39 for travel expenses when 73% of the employee's duties were performed at the Division's Charleston headquarters and the former Commissioner charged \$214.97 to continue a trip from Wrightsville Beach, North Carolina to Myrtle Beach, South Carolina when no conference activities were held at Myrtle Beach, South Carolina based on our inquiry;(7). The Divisions's Safety and Boiler Section, during the period July 1, 1995 - June 30, 1997, collected \$37,153.68 made up of three types of fees (code review fee, witnessing service fee and pressure vessel inspection fee) which are not authorized by the West Virginia Code or the Division's rules and regulations. Also, the Division's Elevator Safety Section was charging "acceptance inspection fees" which are

also not authorized; however, this fee is commingled with other authorized fees and we could not determine the total amount of “acceptance inspection fees” charged and collected by the Division of Labor; (8). We located a total of \$3,942.00 in duplicate payments for goods or services or refunds of fees collected by the Division of Labor indicating the Division was not properly managing accounts payable; and, (9). The Division of Labor was counting lunch periods as time worked for calculating overtime hours worked in violation of their own legislative rules at a projected cost of \$1,966.30 during the period July 1, 1995 through June 30, 1997.

Agency’s Response

No response by the agency.

Accounting For Computer Components

During our audit, we noted various computer hardware and software components purchased between August 26, 1996 and June 27, 1997, at a total cost of \$47,496.81; however, we were unable to determine the ultimate use of these various components. The components consisted of software programs, apparent replacement parts and other computer peripheral devices apparently designed for upgrade purposes. We asked Division personnel why these items had been ordered and we were told the Division of Labor at that time had personnel on their staff capable of doing computer repairs and installing new hardware components.

In light of this, we asked for copies of repair orders or other documentation which would explain where the computer components were used; however, we learned repair orders or other similar records were not available. Chapter 5A, Article 8, Section 9 of the West Virginia Code states in part,

“The head of the agency shall:...

(b) Make and maintain records containing ...essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state...”

Because repair orders were not available, we were unable to determine whether the \$47,496.81 of computer components were actually installed in equipment owned by the State for the purpose of conducting official State business.

Agency's Response

Nearly all of the DOL's computer units, both desktop and laptop units had become outdated. At that point in time replacement costs were beyond the fiscal means of the agency. The agency had on staff a qualified technician capable of performing hardware and software upgrades; and the overall cost for these upgrades would be significantly lower than replacement costs. The final destination and use of these purchases could not be traced in that these were component parts which are not subject to required inventory controls. At this time, any purchases of computer components are listed as received and listed as to their final destination.

It is the opinion of the DOL that this issue is resolved.

CONTRACTOR LICENSING PROGRAM

Contractor Licensing and License Renewals

During our audit of the Contractor Licensing Program, we discovered the Division of Labor has been issuing some licenses and making annual renewals of such licenses to contractors who were not statutorily qualified to hold those licenses under State law. We noted that ten or 16.67% of the 60 contractors examined by us received an initial license or an annual renewal for which they were not statutorily eligible. Based on the results of our testing and projecting the results over the entire population of the 22,169 contractor licenses issued as of June 30, 1997, the Division of Labor has issued licenses and/or annual renewals to as many as 3,695 ineligible contractors.

The requirements for licensure are set forth in Chapter 21, Article 11, Section 15 of the West Virginia Code which states in part,

“...(16)(c) Following successful completion of the examination, and prior to the issuance of the license, the applicant shall certify by affidavit that the applicant: (1) Is in compliance with the business franchise tax provisions of chapter eleven [§11-1-1 et seq.] of this code; (2) Has registered, and is in compliance, with the workers’ compensation fund and the employment security fund, as required by chapter twenty-three [§23-1-1 et seq.] and chapter twenty-one-a [§21A-1-1 et seq.] of this code; and (3) Is in compliance with the applicable wage bond requirements of section one [§21-5-1], article five of this chapter:...”

Some contractor license applicants are exempt from the examination through “Grandfathering” requirement as provided in Chapter 21, Article 11, Section 7 of the West Virginia Code which states in part,

“...(b) A person holding a business registration certificate to conduct business in this state as a contractor on the thirtieth day of September, one thousand nine hundred ninety-one, may register with the board, certify by affidavit the requirements of subsection(c), section fifteen [§21-11-15(c)] hereof, and pay such license fee not to exceed one hundred fifty dollars and shall be issued a contractor’s license without further examination.”

The criteria for contractor license renewals are set forth in Chapter 21, Article 11, Section 8 of the West Virginia Code which states in part,

“A license issued under the provisions of this article expires one year from the date on which it is issued. The board shall establish application and annual license fees not to exceed one hundred fifty dollars. The board shall promulgate rules and regulations pursuant to the provisions of chapter twenty-nine-a [§29A-1-1 et seq.] of this code concerning license renewal:...”

The West Virginia Contractor Licensing Board in its legislatively approved rules and regulations specifically addresses the requirements of contractor license renewals. Title 28, Series 2, Section 5.5 of these rules states in part:

“The holder of a valid license may renew the license on or before the expiration of the date by making renewal application on forms provided by the Board and paying the appropriate fee as set forth in section 5.3 of this rule, **and upon verification by the commissioner that the licensee is in compliance with W. Va. §21-11-15(c)...**” (emphasis added).

We believe the ten contractors noted in our examination were not statutorily qualified to hold a license under State law for the following reasons:

(1) Eight of the contractors were not statutorily eligible to be “grand fathered” because the contractors, according to Division of Labor personnel, did not hold valid business registration certificates as contractors in West Virginia on September 30, 1991 as required by State law. Six of the eight licensees were registered with the Department of Tax and Revenue doing business as either: oil and gas field services, logging, retail trade, wholesale trade or other business services. According to the Department of Tax and Revenue, a contractor would have claimed on their initial registration application a “construction” business class code. The “construction” class codes range from “1500 - General Building Contractor” to “1790 - Other Special Trade Contracting”.

(2) The Division of Labor issued a contractor’s license to an individual who had not successfully passed the written contractors exam and was statutorily ineligible to be “grand fathered”.

(3) The Division of Labor issued an annual license renewal to an individual who was not in compliance with payments due the workers’ compensation fund, the employment security fund or the wage bonding requirement.

In light of the test results, we requested Division of Labor personnel to review an additional 146 contractors to determine if the licenses and annual renewals had been issued in compliance with Chapter 21, Article 11 of the West Virginia Code. Of the contractors actively operating in the state as of June 30, 1997, 20 licenses and renewals had been issued to contractors that were not qualified to be licensed under State law. Other work performed by Division of Labor personnel identified eight additional contractors that were issued licenses and/or renewals for which they were not statutorily qualified. Of the 38 contractors discovered through work performed by us and Division of Labor personnel, **37 of the 38 contractors were still actively operating as contractors in West Virginia as of September 3, 1998, our last day of field work.** The Division of Labor is currently researching an additional 272 contractors that may have been issued licenses for which they were statutorily ineligible to receive under the provisions of Chapter 21, Article 11 of the West Virginia Code.

Agency's Response

The “grandfather” provision contained within the Contractor Licensing Act does not have a termination date. It merely states, “... if a person holds a business registration certificate to conduct business in this state as a contractor on the thirtieth day of September, 1991, the Board shall issue a contractor’s license without examination...”

The DOL has made several attempts to obtain legislation eliminating the grandfather provision, most recently in the 1999 session, but without success. The Board continued to grant grandfather licenses, however under strict conditions. The Board requires valid documentation of work performed in the year proceeding October 1, 1991; thereby, verifying the requesting party acted as a contractor during the required time frame. This information goes through a review process within the DOL and can be approved only by the Commissioner or Deputy Commissioner.

Several attempts have been made to identify grand- fathered licensees who failed to meet the minimum requirements. All those identified were notified that should they desire to retain their licenses, they must successfully completed the required examinations and meet the minimum requirements. Most licensees complied with the requirements, and those who did not lost their license at its normal time of renewal. The DOL will continue do seek legislation eliminating the grandfathering provision of the Contractor Licensing Act.

It is the DOL's opinion that this issue has been resolved.

Evidence of Statutory Compliance

During our examination of 60 contractors, either licensed in fiscal years 1996 and/or 1997, we found 47 of 49 contractors or 96% licensed in fiscal year 1996 did not have any supporting documentation in the contractors' files indicating compliance with the provisions of Chapter 21, Article 11, Section 15, Subsection 16(c) of the West Virginia Code as quoted earlier regarding employer payment obligations due various State agencies. In fiscal year 1997, 48 of 55 contractors or 87% of the contractor files did not have supporting documentation to indicate that the contractor was in compliance with payments due these respective agencies.

Agency's Response

At the time of initial application, no license would be issued without a complete compliance verification. All renewal applications are verified electronically. If no problems are detected, the license is renewed without further documentation. If problems are detected, the applicant is notified that the license cannot be renewed until compliance is met with other agencies. As a result of compliance checks, \$834,228.09 has been paid into the Unemployment Compensation Fund and a substantial amount of Workers' Compensation premiums collected. For example, from August 1998, through March 1999, a total of \$174,153.00 in Workers' Compensation premiums were paid by contractors to qualify for license renewal. A contractor must also hold a current tax license to receive a renewed license. License renewals are routinely held up until full compliance with other agencies is met.

It is the opinion of the DOL that the electronic record of verification of qualified licensees is sufficient, and that hardcopy documentation would be an unnecessary burden. Licensees who have delinquencies will continue to be documented by a corrective action paper trail. The DOL has taken under advisement, a recommendation to document all compliance verifications and a “check-off” type verification document is being drafted.

“Grandfathered” Contractors

As part of our examination of the Contractor Licensing Program, we reviewed the Division of Labor’s licensing practices as they relate to the “grandfather” provisions which allow contractors meeting certain criteria as of September 30, 1991 to become a licensed contractor without satisfying the examination requirement. Chapter 21, Article 11, Section 7(b) of the West Virginia Code states in part,

“...A person holding a business registration certificate to conduct business in this state **as a contractor on the thirtieth day of September, one thousand nine hundred ninety-one**, may register with the board, certify by affidavit the requirements of subsection (c), section fifteen [§ 21-11-15(c)] hereof, and pay such license fee not to exceed one hundred fifty dollars and shall be issued a contractor’s license without further examination.”

Further, Section 12(a) of this Article states in part,

“A license which is not renewed on or before the renewal date shall lapse. The board may establish by regulation a delayed renewal fee to be paid for issuance of any license which has lapsed: **Provided, That no license which has lapsed for a period of two years or more may be renewed.**”

We noted that almost seven years after September 30, 1991, the Division of Labor continues to issue contractor licenses under the aforementioned “grandfathered” provisions. A total of 489 “grand- fathered” contractor’s licenses were issued between October 1, 1993 and September 3, 1998 (the last day of field work). Of this total, 451 licenses were issued between October 1, 1993 and June 30, 1997 and an additional 38 licenses were issued under the same provisions of statute between July 1, 1997 and September 3, 1998.

Agency’s Response

The “grandfather” provision contained within the Contractor Licensing Act does not have a termination date. It merely state, “...if a person holds a business registration certificate to conduct business in this state as a contractor on the thirtieth day of September, 1991, the Board shall issue a contractor’s license without examination...” The DOL has made several attempts to obtain legislation eliminating the grandfather provision, most recently in the 1999 session, but without success. The Board continued to grant grandfather licenses,

however under strict conditions. The Board requires valid documentation of work performed in the year proceeding October 1, 1991; thereby, verifying the requesting party acted as a contractor during the required time frame. This information goes through a review process within the DOL and can be approved only by the Commissioner or Deputy Commissioner.

Several attempts have been made to identify grand fathered licensees who failed to meet the minimum requirements. All those identified were notified that should they desire to retain their licenses, they must successfully completed the required examinations and meet the minimum requirements. Most licensees complied with the requirements, and those who did not lost their license at its normal time of renewal. The DOL will continue to seek legislation eliminating the grandfathering provision of the Contractor Licensing Act.

It is the DOL's opinion that this issue has been resolved.

Contractor Licensing Files

As noted in our prior audit report for the period of July 1, 1986 to June 30, 1994 we projected that as many as 270 contractor licensing files could be missing. We recommended that the Division of Labor and the Contractor Licensing Board comply with Chapter 21, Article 11, Section 15 and 17 of the West Virginia Code. These code sections set forth the requirements

and responsibilities of the Division of Labor in maintaining records and files for contractor licensees. During our review of the Contractor Licensing Fund, the Division of Labor provided us with the names of four “active” contractors whose files were missing and not available for our review. With the original files missing, we were unable to verify proper procedures were followed and statutorily established criteria were met prior to the issuance of any license or annual renewal.

Agency’s Response

The audit cited at least four missing licensee files—two of the four files have been located. While these files could not be located at the time of the audit, it would be assumed that these may be miss-filed numerically or be off the premises due to litigation issues. It should be noted: no license can be issued without the creation of an electronic data record. All licenses are printed from information contained in the data record. That data is obtained from the application file only.

The DOL has taken steps to locate missing files and sign-in/sign-out procedures have been implemented to prevent future loss of files.

Contractor Licensing - Monetary Fines

During our examination of cash receipts, we noted \$292,600.00 in “cease and desist” monetary fines assessed by the Contractor Licensing Board remained uncollected as of June 30, 1998. Some of these fines were assessed as early as December 1991.

Our examination of cash receipts also revealed that the Division of Labor does not have a effective system of accounting for the levy, assessment, collection or deposit of monetary “citations” issued to contractors.

Monetary fines can either be in the form of a “cease and desist” monetary fine or a “citation” monetary fine. Cease and desist fines are levied and assessed to individuals operating without a valid contractor’s license. Citation related fines are levied and assessed to active contractors for any of the three following infractions: 1. not displaying license at work site, 2. not listing license number in advertising and 3. not writing license number on bidding documents.

Agency’s Response

The Board has only one tool available to enforce collection of fines: To withhold licensure until the fine is paid. This works well if the individual who was fined pursues a license. However, the outstanding balance of uncollected fines pertains to individuals who did not pursue licensure. In fact, many are individuals who reside outside the State of West Virginia.

Without the means or authority to collect, the Board has deferred collection action to the Office of the Attorney General.

BOILER SAFETY PROGRAM

Steam Boiler Inspections

During our audit of the Boiler Safety Program, we noted 11 boiler inspections were not completed until after the expiration of the prior year's inspection certificate. The aforementioned boilers were in operation with expired certificates anywhere from five days to 658 days with 213 days being the average. Annual inspections are conducted to decrease the risk of any boiler owner operating an unsafe unit.

Title 42, Series 3 of the Division of Labor's legislatively approved rules and regulations specifically set forth provisions for the regulation and operation of steam boilers. Section 2.1 of these rules states in part,

“...On and after July 1, 1945, all boilers operating in the State of West Virginia...are required to have an annual certificate to operate.”

Section 2.2 of these rules and regulations states in part,

“...Certificate of Inspection will be valid for a period of twelve (12) months from the date of issuance thereof...”

Agency's Response

The DOL agrees with the finding. The problem resulted from the transition from a manual scheduling system to a fully automated scheduling system. This problem has been corrected by computerization.

Boiler Extension Certificates

In addition, our examination of the Boiler Safety Program revealed three boilers were operated with two consecutively running extension permits. In effect, these three boilers were granted 120 day extensions instead of the usual 60-day extensions.

Title 42, Series 3, Section 2.2 of the Division of Labor's Legislative Rules and Regulations states in part,

“...Requests for extension, not to exceed sixty (60) days beyond the expiration date of the certificate, may be considered where there are unusual circumstances or conditions...”

Agency's Response

The DOL agrees with the finding. The problem resulted from the transition from a manual scheduling system to a fully automated scheduling system. This problem has been corrected by computerization.

Boiler Safety Fees

Our audit of the Boiler Safety Program revealed that the Division of Labor elected to issue extension permits and certificates of operation before the receipt of fees. Fees for extension permits were received seven to 160 days after the issuance of the permit with a delinquency average of 42 days. Fees relating to boiler inspections and operating certificates

remained uncollected between ten and 310 days after the date of inspection and averaged 59 days past due. Our examination indicated that the Division did not have an adequate accounting system in place to effectively manage the receivable of such fees. The method of accounting for the uncollected fees consisted of maintaining an “open” file by segregating boiler inspection and extension fees for all companies owing such fees. No formal accounting records or ledgers were maintained as to the assessment and collection of these boiler fees. Therefore, the Division would not be able to readily determine the amount of unpaid fees at any given time and the potential exists that the Division could be providing services without ensuring payment for the services provided.

Agency’s Response

The DOL agrees with the finding. Again, this problem was the result of a manual accounting system which has now been fully automated.

This problem has been corrected by computerization and includes automated invoicing, as well as follow-up invoicing where delinquencies occur.

Extension Permit Approvals

During our audit of the Boiler Safety Program, we noted that four or 17.39% of the 23 extension permits examined by us did not have the required insurance company approval granting the requested extension. Projecting the results of our examination

over the entire population of 62 extension permits issued during the 1996 and 1997 fiscal years, the Division of Labor has issued approximately 11 extension permits where no insurance company approval can be found in the Division's records.

Agency's Response

The Division does not deny this finding. However, controls on the granting of extensions are very rigid and the possibility of such errors are very remote. The four records in question have been archived and are not obtainable within the audit response time frame.

The Division will investigate and take corrective action.

PERSONAL SERVICES PAYMENTS

Reimbursements from Other Accounts

The Division of Labor pays all of its personal services from the State General Revenue Fund and reimburses general revenue from various special revenue fund accounts. Most Division of Labor employees perform duties that are shared between general revenue and special revenue supported activities. Personal services reimbursements for these employees are made using estimates that are established at the beginning of each fiscal year.

Chapter 12, Article 3, Section 12 of the West Virginia Code, as amended, states in part,

“Every appropriation which is payable out of the general revenue, or so much thereof as may remain undrawn at the end of the year

for which made, shall be deemed to have expired at the end of the year for which it is made, and no warrant shall thereafter be issued upon it....”

Based on our examination, the Division of Labor did make reimbursements to the State General Revenue Fund in amounts based on the calculated estimates. However, during our audit of personal services, we noted that cost sharing percentages calculated at the beginning of each fiscal year can vary from the actual percentage of shared costs incurred and the Division of Labor has not maintained records necessary to make reimbursements at the close of each fiscal year to properly balance the accounts.

Agency’s Response

The original estimates are prepared with much accuracy. However, as an employee becomes seated in a job assignment, the actual distribution may deviate from the original estimate. Weekly time records reflect the actual distribution of work time.

The DOL agrees with the importance of more frequent estimate reviews. Presently, the estimates are reviewed twice annually.

Excess Payments

As part of our test of personal services, we determined the Division of Labor included lunch periods as time worked in calculating overtime payments for five employees examined. As a result, the agency paid \$351.45 in excess of what is required by the

West Virginia Code for overtime compensation. The \$351.45 of excess overtime represents 22% of the \$1,597.51 paid in overtime for the same five employees. When we applied this percentage to the \$8,937.77 in overtime paid by the Division of Labor during the period July 1, 1995 through June 30, 1997, we project that \$1,966.30 of this amount was attributable to lunch periods being included as work time.

Title 42, Series 8, Sections 9.2 and 9.3 of the Division of Labor's Legislative Rules define nonwork time and work time as,

“9.2 Nonwork 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.”

Section 9.8 of the same Legislative Rules states,

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

Agency's Response

The DOL takes exception to this issue. The audit staff assumed that agency employees' overtime calculations were governed by 42 CSR 8, a Division of Labor Legislative Rule; however, this is not the case. All state, county and local government employees are governed by the U.S. Department of Labor's "Fair Labor Standards Act (FLSA)". The FLSA requires

that the agency pay for overtime, a rate of one and one-half the regular rate for all hours over forty. The calculation of the forty hours must include, at the minimum, the actual hours working. Counting a paid lunch break is a matter of employer policy as long as the minimum calculation is met (40 hours “actually worked”). Division of Personnel regulations parallel the FLSA; therefore, if overtime payments are acceptable to the Division of Personnel, the DOL feels as though our methods of payment are correct.

The Division disagrees with this finding.

Overtime Payments Due Employee

In addition, during our test of personal services we noted that a Division of Labor employee was not paid \$118.58 representing 7.5 hours of overtime. According to agency time sheets, the employee worked 41.5 and 46.0 hours for the weeks ending December 13, 1996 and December 20, 1996, respectively. However, agency payroll records indicate this employee was never paid for the overtime hours.

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

“(a) On or after the first day of July one thousand nine hundred eighty no employer shall employ any of his employees for a workweek 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....”

Agency's Response

No response by the agency.

Payment Before Services Were Rendered

In contrast to aforementioned issue, we noted on two occasions that a former Division of Labor employee did not work the required number of hours for a “workweek” which resulted in an overpayment of 5.0 hours or \$74.54. The employee was short the required number of hours by 4.33 and 0.67 hours for the weeks ending September 27, 1996 and November 29, 1996, respectively.

Agency's Response

No response by the agency.

OTHER ISSUES

Employee Emoluments

Several items which appeared to us to be destined for personal use were purchased using State funds by the Division of Labor. We were informed that these items which were largely promotional in nature purchased by the Division for use by various Division of Labor employees and the general public.

The following schedule illustrates the expenditures and the amounts relating to those items purchased:

<u>Description of Item(s)</u>	<u>Amount</u>
1) Lapel Pins	\$2,682.50
2) Men's and Women's Watches	240.00
3) Tote Bags	1,492.00
4) Windshield Ice Scrapers	620.88
5) Custom Picture & Photograph Framing	849.49
6) Floral Arrangements	<u>635.20</u>
TOTAL	<u>\$6,520.07</u>

The issue of State employees receiving additional compensation in the form of items of value above and beyond such compensation as they are entitled to under State law is discussed regarding Division of Health employees in Chapter 27, Article 2, Section 2, of the West Virginia Code which states in part,

...”The superintendents and other officers and employees of each state hospital or center shall be paid salaries commensurate with their duties and responsibilities, but no meals or other emoluments of any kind shall be furnished, given or paid to such superintendents, officers or employees as all or part of their salary...”

In addition, Chapter 28, Article 5, Section 23, of the West Virginia Code regarding Division of Corrections’ employees states in part,

“No officer or employee shall receive, directly or indirectly, any other compensation for his services than that provided by law, or by the state commissioner of public institutions...”

The aforementioned sections of State law establish the precedent that State employees are not authorized to be given gifts, or other items of value above and beyond their compensation.

Agency’s Response

The Division acknowledges that these purchases were possibly improper, but were made on the specific instructions of the previous Commissioner. Some items were purchased for distribution to employees, while others were distributed to unknown

destinations. The DOL has mailed correspondence to the former Commissioner as to the possible location of the picture frames. Should the picture frames have been considered a personal item and removed from the office at the change of administration, the DOL has requested return of the items or reimbursement of the total cost of \$849.49. The remaining items are most likely not returnable and the DOL is not sure how to proceed on this matter. Current administration strictly prohibits the purchase of goods for personal use by employees.

Travel

Division of Labor travel records indicated a Division employee was reimbursed \$12,254.39 for travel between Bluefield, West Virginia and Charleston, West Virginia during the period July 1, 1995 through June 30, 1997. According to Division records, the employee resides in Bluefield, West Virginia; however, according to those same travel records **73%** of the employee's duties were performed at the Division's headquarter's in Charleston. During fiscal years 1996 and 1997, 63 of 86 trips by this employee related to travel made between Bluefield, West Virginia and Charleston, West Virginia. In addition to the above expenses approximately \$472.50 was remitted to the West Virginia Parkway Authority for the employee's toll charges during both fiscal years. This employee was also issued a State vehicle for which the

Division paid related lease, maintenance and fuel charges. We believe this employee was paid for expenses he incurred in coming to work which should have resulted in additional reportable taxable income for the employee under West Virginia law.

Chapter 11, Article 21, Section 12 of the West Virginia Code 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...”

Furthermore, Section 72 of this same Article 21 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 each such employee in respect of the wages paid by such employer to such employee during the calendar year on or before fifteen day of February of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the date on which the last payment of wages is made, 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 such other information as the tax commissioner shall prescribe.”

Our test of travel also showed the former Commissioner of the Division of Labor was paid \$214.97 for travel that does not appear to have been related to State business. The Commissioner traveled from Charleston, West Virginia to Wrightsville Beach, North Carolina to attend a Conference of the National Association of Governmental Labor Officials (NAGLO) during the period July 23 - 26, 1995.

The former Commissioner continued on to Myrtle Beach, South Carolina, and incurred additional lodging charges of \$143.37, mileage charges of \$45.60 and meal charges of \$26.00. We contacted the Staff Director of NAGLO who stated that, to the best of his knowledge, no conference-related activities were scheduled to take place, or took place, in Myrtle Beach, South Carolina during this time frame. The “travel expense account settlement form” did not indicate any other purpose of travel that would substantiate expenditures for State business conducted in Myrtle Beach, South Carolina.

The State of West Virginia Travel Regulations state in part,

“GROUND TRANSPORTATION: ... The mileage (distance and amount) claimed for reimbursement when using a Privately Owned Vehicle must be for bona fide business travel miles only; mileage cannot be claimed or reimbursed for personal use, such as normal commuting, sight seeing, and/or obtaining meals from establishments beyond a reasonable distance from the traveler’s lodging.”

Agency’s Response

All DOL field staff have their home residence designated as their official headquarters. The employee in question designated Bluefield, WV as his official headquarters. For an

extended period of time, the previous Commissioner required this individual to work out of the Charleston office. This was a temporary assignment, therefore the official headquarters was not changed.

The Division believes this was proper.

“...Former Commissioner charged \$214.97 to continue a trip from Wrightsville Beach, NC to Myrtle Beach, SC when no conference activities were held at Myrtle Beach, SC...”

The Division agrees that this charge was improper. The DOL has requested that the former Commissioner make refund of the \$214.97.

Fees Charged Without Statutory Authority

Our test of cash receipts revealed four instances in which the Division of Labor is providing services and collecting revenues not specifically authorized by the West Virginia Code or the Division of Labor’s legislatively approved Rules and Regulations promulgated under Chapter 21 of the West Virginia Code.

Three of the unauthorized fees were collected by the Safety and Boiler Section. Fees were collected for “code reviews”, “witnessing services” and “pressure vessel inspections”. These services are provided according to Division of Labor personnel to meet various requirements of the American Society of Mechanical Engineers (ASME) and the National Board of Boiler of Pressure Vessel Inspectors (NBBI) and are not required by West Virginia law.

The other fee, an “acceptance inspection fee” was collected by the Elevator Safety Section. An “acceptance inspection” is by request of the elevator owner and is performed by a Division of Labor elevator inspector observing the installation of an elevator. The elevator installer is charged the \$100.00 fee.

The aforementioned fees are deposited into various State special revenue accounts maintained by the Division of Labor. During our test of cash receipts, we noted the Safety and Boiler Section collected \$36,653.68 relating to “code reviews” and “witnessing services” during fiscal years 1996 and 1997. In addition, we were able to document \$500.00 in fees collected for “pressure vessel inspections” for the same period. However, we were unable to document the exact amount of the “acceptance inspection fees” collected by the Elevator Safety Section. These monies were commingled with other elevator fees collected.

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

“...(b) When so paid, such moneys shall be credited to the state fund and treated by the auditor and treasurer as part of the general revenue of the state: ...excepting the following funds which shall be recorded in separate accounts:...(10) All moneys collected or received under any act of the Legislative providing that funds collected or received thereunder shall be used for specific purposes....”

Chapter 21, Article 3, Section 7 of the West Virginia Code states in part,

“... To carry out the provisions of this section, the commissioner of labor shall prescribe rules and regulations under which boilers may be constructed and operated, according to their class....”

In addition, Chapter 21, Article 3C, Section 11, of the West Virginia Code states in part,

“(a) The division shall propose for promulgation legislative rules pursuant to article three[§29A-3-1 et seq.], chapter twenty-nine-a of this code in order to implement the provisions of this article....”

We recommend the Division of Labor refund all unauthorized fees collected by them since July 1, 1995. Also, we recommend the Division cease charging and collecting such fees until such time as the Division of Labor receives legislative approval through law or approved rules and regulations authorizing such fees.

Agency's Response

This is an issue that has appeared in previous audit reports without question. The Legislative Rules adopts the ASME Code as it relates to boilers and pressure vessels. The code requires the collection of fees to support the activity. The Special Revenue account was created and the collection of fees began in the early 1960's, and has continued without question save only an audit report. The previous audits dismissed the issue

based on the adoption of the ASME Code by legislative rule and the subsequent rule approval by the full Legislature. The rule as approved by the full Legislature includes a “fees schedule” and that schedule has been frequently updated with legislative approval. The Division has made attempts to pass legislation to clarify this issue, but have been advised that the rule is sufficient and legislation is not necessary.

It is the opinion of the Division that collection of fees is property authorized. However, the Division will continue to pursue appropriate legislative changes to the Code.

Inspection requirements of the Elevator Safety Act specifically exempt all elevators which are less than five years old. This also includes the installation of new elevators. Several new elevator owners and installers have contacted the Division for a code compliance inspection. Without Code authority the Division cannot expend funds to perform the requested inspections. However, if the person making the request is willing to pay all costs incurred, the Division will make an inspector available. This inspection is called an “acceptance inspection”. It is a service and not a mandate. If the acceptance of costs reimbursements is improper, the Division will discontinue providing this service to the owners of new elevators.

Unauthorized Expenditures

Through an examination of the Contractor Licensing Fund - Fund 3187, we noted several expenditures paid to various personnel firms for contract temporary employees. Division of Labor staff provided us with a list of these temporary employees and the various Division sections to which they were assigned. We determined in fiscal year 1997, \$14,109.89 had been paid from the Contractor Licensing Fund for employees assigned to the Weights and Measures, Wage and Hour and Elevator Safety sections. In addition, we found \$2,103.68 in travel had been paid for two employees to attend a child labor conference in September 1996 which we believe should have been paid from the budget of the Wage and Hour Section rather than Contractor Licensing funds. During fiscal year 1996, we noted similar expenditures were paid from the proper funds.

Chapter 21, Article 11, Section 17 of the West Virginia Code states in part,

“(a)...All moneys shall be deposited in a special account in the state treasury to be known as the “West Virginia Contractor Licensing Board Fund”. Expenditures from said fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three [§12-3-1 et seq.], chapter twelve of this code and upon fulfillment of the provisions set forth in article two [§5A-2-1 et seq.], chapter five-a of this code: Provided, That for the fiscal year ending the thirtieth day of June, one thousand nine hundred ninety-two, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature. Amounts collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be transferred to other accounts of funds and redesignated for other purposes by appropriation of the Legislature....”

We found no evidence of legislative appropriation or redesignation of funds which would have authorized the expenditure of these monies for the benefit of other Division of Labor special revenue accounts.

Agency's Response

The Division was provided with a list of charges which were questioned. Charges were paid by the Contractor Licensing Fund, but appeared to be activities unrelated to contractor licensing.

Travel totaling \$2,103.68 was questioned. This travel was related to a contractor licensing conference attended by individuals assigned to that activity. This was proper as charged.

The questionable personal service charges for temporary employees cannot be completely resolved within the time frame available to prepare this audit response. However, of the seven temporary employees in question, the DOL misrepresented three employees as working on activities other than contractor licensing. These three were directly involved in contractor licensing. The remaining four employees are questionable.

Current policy and procedures will prevent the re-occurrence this problem.

Duplicate Payments and Refunds

Chapter 12, Article 3, Section 13 of the West Virginia Code states,

“No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered.”

Our test of cash disbursements revealed that eight private sector vendors and one state agency were paid for the same goods and services more than once. The initial payments are shown below and followed by what Division of Labor personnel confirmed to be a duplicate payment:

<u>FIMS Document Number</u>	<u>Fund Number</u>	<u>Invoice Number</u>	<u>Amount Paid</u>	<u>Overpayment</u>	<u>Purpose of Expenditure</u>
I2623361	0260	55903	\$1,867.00		Computer Purchase
I2693719	0260/3187	55903	\$1,867.00	\$1,867.00	
I1677385	0260	374001	524.00		Maintenance Agreement
I1691042	0260	374001	524.00	524.00	
I2479600	0260	Not Listed	445.00		Five 3 Gal. Funnels
I2479606	0260	Not Listed	445.00	445.00	
I2337206	0260	4835	282.60		Trailer Hitch
I2340811	0260	4835	282.60	282.60	
I2688075	0260	E11991-177	189.68		Shipping Charges
I2711911	0260	E11991-177	189.68	189.68	
I2687259	0260	11W345-167	166.32		Shipping Charges
I2701972	0260	11W345-167	166.32	166.32	
I2179926	0260	GCCB-4509	51.98		Vehicle Repairs
I2191677	0260	GCCB-4509	51.98	51.98	
I1929835	0260	960250167	40.42		Electrical Supplies
I1955686	0260	960250167	40.42	40.42	
E236135	0260	Not Listed	210.00		E.E.O. Conference
E246672	0260	Not Listed	210.00	<u>210.00</u>	
				<u>\$3,777.00</u>	

In addition, our review of refunds of fees received by the Division of Labor revealed that two duplicate refunds totaling \$165.00 were paid to a contractor from the Contractor Licensing Board Fund - Fund 3187. First, \$75.00 refund dated April 04, 1997 was paid on FIMS document I2589073 and a duplicate refund was issued on April 9, 1997 to the same contractor on FIMS document I2597185. The second instance involved a \$90.00 refund dated April 3, 1997 paid on FIMS document I2586434. A duplicate refund was issued July 7, 1997, on FIMS document I2741657 to the same contractor for the same amount of \$90.00.

Chapter 12, Article 3, Section 10 of the West Virginia Code, as amended, states in part,

“It shall be unlawful for any state officer to issue his requisition on the state auditor in payment of any claim unless an itemized account is filed in the office of the officer issuing the requisition....”

These duplicate payments are not in compliance with these provisions of law. The itemization supporting these duplicate payments means that payments were made without any additional benefit being received by the State. Therefore, we believe the Division should seek to recover these apparent overpayments totaling \$3,942.00.

Agency's Response

The Division has reviewed nine incidents of alleged duplicate payments and concurs that duplicate payments were made. Refunds and deposits correcting the duplication have been located and verified for five of the nine. The remaining four are purchases by the Weights and Measures laboratory and must be researched with that office. The amount of time available to prepare this audit response is insufficient to complete that research.

When state agencies were forced to utilize the FIMS accounting system, one of the assurances of that system was the detection of duplicate payments. The system does not provide that edit. Therefore, duplication went undetected. Until FIMS is corrected the DOL will revert to manually checking for duplication.

Inactive Accounts

During our audit, we noted two special revenue accounts had little or no activity in recent years. Upon conferring with Division of Labor employees, we were told these two special revenue accounts have not been utilized since 1986 and that the Division had attempted to close these accounts.

Chapter 36, Article 8, Section 9 of the West Virginia Code, as amended, states in part,

“All personal property not otherwise covered by this article, including any income or increment thereon and after deducting any lawful charges, that is held or owing in this State in the ordinary course of the holder’s business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned...”

Further, Chapter 36, Article 8, Section 11 of the West Virginia Code, as amended, states in part,

“(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this article shall report to the State treasurer with respect to the property as hereinafter provided....”

The following list discloses the accounts involved and the account balances as of June 30, 1997:

<u>FUND NAME</u>	<u>FUND NUMBER</u>	<u>ACCOUNT BALANCE AT JUNE 30, 1997</u>
Special Equipment Fund	3183	\$ 223.11
Insurance Proceeds for Stolen Truck Fund	3184	<u>5,798.54</u>
		<u>\$6,021.65</u>

We believe these funds would be covered by the unclaimed property law.

Agency's Response

The DOL will again attempt to close the accounts.

Annual Increment Calculations

Chapter 5, Article 5, Section 2 of the West Virginia Code, as amended, then in effect, stated in part,

“Effective for the fiscal year beginning the first day of July, one thousand nine hundred ninety-six, every eligible employee with three or more years of service shall receive an annual salary increase equal to fifty dollars times the employees’ years of service, not to exceed twenty years of service....”

Our examination of annual increment revealed discrepancies in the annual increment paid to the estate of a former Division of Labor employee who died during his employment with the State. The former employee’s estate was paid \$581.25 for a prorated annual increment in April, 1996.

We calculated that the former employee had 22 years of service as of July 1, 1995 and that he would have received \$1,000.00 on July 1, 1996. The employee's monthly annual increment accrual rate would have increased to \$83.33 on March 9, 1996 (the effective date of the amendment to Chapter 5, Article 5, Section 2, of the West Virginia Code). We believe the employee's estate was underpaid a total of \$181.29.

Agency's Response

The Division of Personnel promulgates the regulations governing the calculation of partial year increment pay. The DOL adhered to those regulations as required of all state agencies, and payment, as with payroll was certified by the Division of Personnel.

It is the opinion of the DOL that the payment calculation was proper.

Overpayment of Fees

Section 5.5 of the Division of Labor's legislatively approved rules and regulations state in part,

“...If the renewal application is received or postmarked more than fifteen (15) days after expiration date, the applicant is required to pay, in addition to the annual renewal fee, a penalty fee of \$100.00...”

During our examination of cash receipts, we noted two instances in which contractors remitted a \$100.00 late fee with their annual license renewal fees. However, one annual renewal was received 12 days past due according to the postmark on the original envelope and the other renewal was only 14 days late according to Division of Labor records.

Agency's Response

The DOL does not deny this finding. With appropriate documentation and verification, the DOL will insure that refunds have or will be made.

Incomplete Going Out of Business Inventory Lists Submitted

During our audit of the Going Out of Business (GOB) program, we noted three companies conducting GOB sales in the 1996 and 1997 fiscal years had submitted indemnity bonds of \$3,000.00, \$5,000.00 and \$10,000.00. However, the required total retail value of the inventory was omitted.

Chapter 47, Article 11B, Section 4 of the West Virginia Code states in part,

“...All applicants for a licensed sale regulated by this article shall set forth and contain the following information:...(9) A full, complete, detailed and itemized inventory of the goods, wares and merchandise to be offered at such sale as disclosed by applicant’s records which inventory shall:...(iii) The total retail value of the inventory of goods, wares and merchandise to be offered at such sale based on the inventory used for applicant’s most recent federal income tax return adjusted for sales and purchases....”

In addition, Chapter 47, Article 11B, Section 9 of the West Virginia Code states:

“No license shall be issued unless the applicant files with the commissioner a bond with corporate surety payable to the State of West Virginia conditioned upon the faithful observance of all the provisions of this article, the payment to any municipality or the State of all taxes due and owing or which may become due and the indemnifying of any purchaser at such sale who suffers any loss by reason of misrepresentation made in connection with such sale: Provided, That the aggregate liability of the surety for all breaches of the conditions of the bond shall in no event exceed the amount of said bond. **The amount of said bond shall be determined as follows: Five percent of the first one hundred thousand dollars of the retail value of all the goods, wares and merchandise to be offered at such sale, two percent of the next four hundred thousand dollars and one percent of the balance.** Said bond shall be approved as to form and sufficiency by the prosecuting attorney or his assistant of the county in which such sale is to be conducted.” (emphasis added)

Without the total retail value of the inventory of goods, wares and merchandise offered at the sales, we were unable to determine whether the bonding submitted was sufficient to meet the above requirements.

Agency's Response

The DOL agrees partially with this finding. All three records contained itemized inventories. One of the inventories contained only the item and the quantity of each item. The total retail value was verified by unknown sources. This problem will be corrected by the creation of a new application form.

The new form will contain the total retail value and be supported by the inventory itself. The other two records did contain inventories which contained the item, quantity and the value of the quantity. However, a final grand total of the total inventory was not shown. The solution here was to add all the sub-totals and arrive at a total figure. Again, the problem will be resolved with the re-design of the application form.

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 Division of Labor for the years ended June 30, 1997 and June 30, 1996. The financial statement is the responsibility of the management of the West Virginia Division of Labor. Our responsibility is to express an opinion on the financial statement based on our audit.

Except as discussed in the following paragraph, 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 evaluations the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

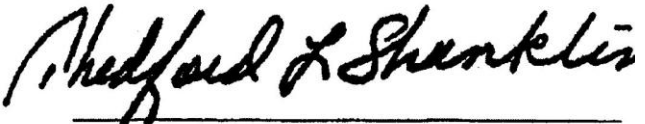
Certain records relating to the issuance of contractor licenses were unavailable during the audit and could not be located by agency personnel. As a result, we were unable to satisfy ourselves that proper procedures were followed in the issuance of these licenses and all requirements of the law were met prior to the issuance of these licenses.

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 principles.

In our opinion, except for the effects, if any, of the Agency's inability to locate certain records relating to contractor licenses and our inability to apply alternative procedures to satisfy ourselves as to the fairness of the amounts received for contractor licenses and that proper procedures were followed and applicable laws complied with in their issuance as noted in paragraph three, the financial statement referred to above presents fairly, in all material respects, the appropriations and expenditures and revenue collected and expenses paid of the West Virginia Division of Labor for the years ended June 30, 1997 and June 30, 1996, 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 purposes 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 except for the effects, if any, of the matters discussed in paragraph three above, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectfully submitted,



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

September 3, 1998

Auditors: Michael E. Sizemore, CPA, Supervisor
Tim Butler, CPA, Auditor-in-Charge
Larry D. Bowman
David N. Harris

**WEST VIRGINIA DIVISION OF LABOR
STATEMENT OF APPROPRIATIONS/CASH RECEIPTS, EXPENDITURES/
DISBURSEMENTS AND CHANGES IN FUND BALANCE**

Year Ended June 30, 1997

	<u>General Revenue</u>	<u>Special Revenue</u>	<u>Combined Totals</u>
Appropriations/Cash Receipts:			
Appropriations	\$2,465,925.00	\$ 0.00	\$2,465,925.00
License and Inspection Fees	57,147.60	2,011,060.97	2,068,208.57
Interest on Investments	0.00	0.00	0.00
Proceeds from Investments	0.00	0.00	0.00
Miscellaneous	0.00	0.00	0.00
	2,523,072.60	2,011,060.97	4,534,133.57
Expenditures/Disbursements:			
Personal Services	1,456,700.14	944,178.07	2,400,878.21
Annual Increment	17,651.81	11,532.91	29,184.72
Employee Benefits	43,904.87	335,610.07	379,514.94
Current Expenses	480,261.69	527,506.56	1,007,768.25
Repairs and Alterations	79,714.38	2,360.59	82,074.97
Equipment	121,504.53	46,522.07	168,026.60
Payment of Claims	0.00	160.55	160.55
Transfers to State General Revenue Fund	57,147.60	0.00	57,147.60
	2,256,885.02	1,867,870.82	4,124,755.84
Appropriations/Cash Receipts Over Expenditures/Disbursements	266,187.58	143,190.15	409,377.73
Expirations and Expenditures after June 30	-266,187.58	0.00	-266,187.58
Beginning Balance	0.00	266,291.23	266,291.23
Transfers to Manufactured Housing Trust Recovery Fund - Fund 3190-640	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>\$ 0.00</u>	<u>\$ 409,481.38</u>	<u>\$ 409,481.38</u>

See Notes to Financial Statement

	<u>Year Ended June 30, 1996</u>		
<u>General Revenue</u>	<u>Special Revenue</u>	<u>Combined Totals</u>	
\$1,851,775.00	\$ 0.00	\$1,851,775.00	
59,129.00	1,872,656.88	1,931,785.88	
0.00	22,455.29	22,455.29	
0.00	503,653.36	503,653.36	
0.00	0.00	0.00	
1,910,904.00	2,398,765.53	4,309,669.53	
894,777.36	968,932.44	1,863,709.80	
11,797.20	8,291.06	20,088.26	
301,939.96	349,359.74	651,299.70	
378,024.30	649,068.70	1,027,093.00	
45,457.22	5,555.80	51,013.02	
45,629.02	55,884.53	101,513.55	
0.00	8,688.00	8,688.00	
59,129.00	0.00	59,129.00	
1,736,754.06	2,045,780.27	3,782,534.33	
174,149.94	352,985.26	527,135.20	
-174,149.94	0.00	-174,149.94	
0.00	451,837.02	451,837.02	
<u>0.00</u>	<u>-538,530.65</u>	<u>-538,530.65</u>	
<u>\$ 0.00</u>	<u>\$ 266,291.63</u>	<u>\$ 266,291.63</u>	

WEST VIRGINIA DIVISION OF LABOR

NOTES TO FINANCIAL STATEMENTS

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 revenue 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>1997</u>	<u>1996</u>	<u>1997</u>	<u>1996</u>
Personal Services	\$ 3,770.75	\$ 445.90	\$33,070.09	\$12,223.50
Employee Benefits	31,647.35	24,475.21	34,717.08	17,346.71
Unclassified	92,474.21	116,219.82	67.98	1,357.00
Annual Increment	0.00	0.00	2,749.91	2,081.80
Weights & Measures	<u>67,690.21</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
	<u>\$195,582.52</u>	<u>\$141,140.93</u>	<u>\$70,605.06</u>	<u>\$33,009.01</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. Employees' contributions are 4.5% of their annual compensation and employees have vested rights under certain circumstances. The West Virginia Division of Labor matches contributions at 9.5% of the compensation on which the employees made contributions. The West Virginia Division of Labor's pension expenditures were as follows:

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
General Revenue	\$113,053.62	\$ 89,564.46
Special Revenue	<u>97,400.94</u>	<u>98,820.86</u>
	<u>\$210,454.56</u>	<u>\$188,385.32</u>

Note C - Bonding Requirements

In conformity with Chapter 12, Article 5, Section 2 of the West Virginia Code, as amended, various State agencies are required to deposit with the West Virginia State Treasurer all securities required to be deposited with the State or held in legal custody by the State and all departments of the State. Commensurately, the West Virginia Division of Labor had on deposit with the West Virginia State Treasurer for the purpose of wage payment security and contractor licensing bonds, **\$9,636,874.60 at June 30, 1997.**

Note D - Trust Funds

In accordance with Chapter 21, Article 5, Section 14 of the West Virginia Code, as amended, certain employers who have not been doing business actively and actually engaged in the conduct of business for at least five years are required to post a surety bond. The amount of each employer's bond is to be equal to the total of the employer's gross payroll for four weeks at full capacity or production, plus fifteen percent of the said total of the employer's gross payroll for four weeks at full capacity or production. The receipts for wage payment bonds were \$139,453.78 and \$132,172.34 for fiscal years 1997 and 1996, respectively. The claims for wages paid were \$25,572.96 and \$67,840.90 for fiscal years 1997 and 1996, respectively. The ending balances at June 30, 1997 were Wage Payment/Collection Act Escrow-Unclassified Fund 3180-640, \$304,823.77 and Wage Payment Bond Assurance Investment-Unclassified Fund 3181-640, \$391,637.77.

SUPPLEMENTAL INFORMATION

WEST VIRGINIA DIVISION OF LABOR
STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
GENERAL REVENUE

	Year Ended June , 30	
	<u>1997</u>	<u>1996</u>
<u>Personal Services - Fund 0260-001</u>		
Appropriations	\$1,012,273.00	\$ 874,063.00
Expenditures:		
Personal Services	978,578.19	861,839.50
Annual Increment	<u>624.72</u>	<u>0.00</u>
	<u>979,202.91</u>	<u>861,839.50</u>
	33,070.09	12,223.50
Transmittals Paid After June 30	<u>3,770.75</u>	<u>445.90</u>
Balance	<u>\$ 36,840.84</u>	<u>\$ 12,669.40</u>
<u>Annual Increment - Fund 0260-004</u>		
Appropriations	\$19,277.00	\$13,879.00
Expenditures	<u>16,527.09</u>	<u>11,797.20</u>
	2,749.91	2,081.80
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 2,749.91</u>	<u>\$ 2,081.80</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
GENERAL REVENUE

	Year Ended June 30,	
	<u>1997</u>	<u>1996</u>
<u>Employee Benefits - Fund 0260-010</u>		
Appropriations	\$380,356.00	\$328,984.00
Expenditures	<u>345,638.92</u>	<u>311,637.29</u>
	34,717.08	17,346.71
Transmittals Paid After June 30	<u>31,647.35</u>	<u>24,475.21</u>
Balance	<u>\$ 66,364.43</u>	<u>\$ 41,821.92</u>
<u>Unclassified - Fund 0260-099</u>		
Appropriations	\$604,019.00	\$634,849.00
Expenditures:		
Personal Services	150.00	33,733.76
Employee Benefits	0.00	16,222.86
Current Expenses	444,016.20	444,539.15
Repairs and Maintenance	49,061.88	66,179.70
Equipment	<u>110,722.94</u>	<u>72,816.53</u>
	<u>603,951.02</u>	<u>633,492.00</u>
	67.98	1,357.00
Transmittals Paid After June 30	<u>92,474.21</u>	<u>116,219.82</u>
Balance	<u>\$ 92,542.19</u>	<u>\$117,576.82</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENT OF APPROPRIATIONS AND EXPENDITURES
GENERAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Weights and Measures Program -</u> <u>Fund 0260-483</u>		
Appropriations	\$450,000.00	\$0.00
Expenditures:		
Personal Services	167,751.13	0.00
Annual Increment	500.00	0.00
Employee Benefits	47,435.61	0.00
Current Expenses	128,244.38	0.00
Repairs and Maintenance	35,680.34	0.00
Equipment	<u>70,388.54</u>	<u>0.00</u>
	<u>450,000.00</u>	<u>0.00</u>
	0.00	0.00
Transmittals Paid After June 30	<u>67,690.21</u>	<u>0.00</u>
Balance	<u>\$ 67,690.21</u>	<u>\$0.00</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
GENERAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Departmental Fees - Fund 0260-592</u>		
Cash Receipts:		
Bedding Fees	\$35,545.00	\$31,339.00
Out of Business Fees	2,200.00	2,450.00
Amusement Ride Fees	11,260.00	11,140.00
Polygraph Fees	1,100.00	1,800.00
Weights and Measures Fees	<u>7,042.60</u>	<u>12,400.00</u>
	57,147.60	59,129.00
Disbursements:		
Transfers to State General Revenue Fund	<u>57,147.60</u>	<u>59,129.00</u>
	0.00	0.00
Beginning Balance	<u>0.00</u>	<u>0.00</u>
Ending Balance	<u>\$ 0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENTS OF CASH RECEIPTS, DISBURSEMENTS AND
CHANGES IN CASH BALANCE
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Boiler Inspection Fees Fund -</u> <u>Fund 3182-099</u>		
Cash Receipts:		
Boiler Inspection Fees	\$43,524.00	\$44,387.88
Disbursements:		
Personal Services	28,602.98	31,404.00
Annual Increment	525.00	378.00
Employee Benefits	11,555.31	12,775.45
Current Expenses	1,474.63	18,339.08
Repairs and Maintenance	0.00	0.00
Equipment	<u>0.00</u>	<u>446.26</u>
	<u>42,157.92</u>	<u>63,342.79</u>
Cash Receipts Over/(Under) Disbursements	1,366.08	(18,954.91)
Beginning Balance	<u>14,689.75</u>	<u>33,644.66</u>
Ending Balance	<u>\$16,055.83</u>	<u>\$14,689.75</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENTS OF CASH RECEIPTS, DISBURSEMENTS AND
CHANGES IN CASH BALANCE
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Special Equipment Fund - Fund 3183-099</u>		
Cash Receipts	\$ 0.00	\$ 0.00
Disbursements	<u>0.00</u>	<u>0.00</u>
	0.00	0.00
Beginning Balance	<u>223.11</u>	<u>223.11</u>
Ending Balance	<u>\$ 223.11</u>	<u>\$ 223.11</u>
<u>Insurance Proceeds for Stolen Trucks Fund - Fund 3184-099</u>		
Cash Receipts	\$ 0.00	\$ 0.00
Disbursements	<u>0.00</u>	<u>0.00</u>
	0.00	0.00
Beginning Balance	<u>5,798.54</u>	<u>5,798.54</u>
Ending Balance	<u>\$5,798.54</u>	<u>\$5,798.54</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENT OF CASH RECEIPTS, DISBURSEMENTS AND
CHANGES IN CASH BALANCE
SPECIAL REVENUE

	Year Ended June 30,	
	<u>1997</u>	<u>1996</u>
<u>West Virginia Manufactured Housing Construction/SAF Standards Act Fund - Fund 3185-099</u>		
Cash Receipts:		
Other Collections, Fees, Licenses and Income	\$ 48,648.80	\$ 60,016.00
Department of Housing and Urban Development	57,744.00	59,643.00
Fines and Penalties	0.00	5,150.00
Interest on Investments	0.00	22,455.29
Proceeds from Investments	<u>0.00</u>	<u>503,653.36</u>
	106,392.80	650,917.65
Disbursements:		
Personal Services	75,022.05	61,737.45
Annual Increment	700.50	597.60
Employee Benefits	22,658.86	19,626.51
Current Expenses	37,485.55	690.00
Repairs and Alterations	444.50	0.00
Equipment	586.95	0.00
Payment of Claims	<u>160.55</u>	<u>8,688.00</u>
	<u>137,058.96</u>	<u>91,339.56</u>
Cash Receipts (Under)/Over Disbursements	(30,666.16)	559,578.09
Beginning Balance	48,921.99	27,874.55
Transfers to Manufactured Housing Trust Recovery Fund - Fund 3190-640	<u>0.00</u>	<u>(538,530.65)</u>
Ending Balance	\$ 18,255.83	\$ 48,921.99

WEST VIRGINIA DIVISION OF LABOR
STATEMENT OF CASH RECEIPTS, DISBURSEMENTS AND
CHANGES IN CASH BALANCE
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Elevator Safety Act Fund - Fund 3189-099</u>		
Cash Receipts	\$0.00	\$ 0.00
Disbursements:		
Employee Benefits	0.00	5,244.81
Current Expenses	0.00	4,866.65
Transfer to Elevator Safety Fund - Fund 3188-640	<u>0.00</u>	<u>61,800.71</u>
	0.00	71,912.17
Cash Receipts (Under) Disbursements	0.00	(71,912.17)
Beginning Balance	<u>0.00</u>	<u>71,912.17</u>
Ending Balance	<u>\$0.00</u>	<u>\$ 0.00</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Contractor Licensing Board Fund -</u>		
<u>Personal Services - Fund 3187-001</u>		
Appropriations	\$723,969.00	\$714,792.00
Expenditures	<u>709,267.29</u>	<u>704,045.39</u>
	14,701.71	10,746.61
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 14,701.71</u>	<u>\$ 10,746.61</u>
<u>Contractor Licensing Board Fund –</u>		
<u>Annual Increment - Fund 3187-004</u>		
Appropriations	\$ 9,928.00	\$ 5,895.00
Expenditures	<u>9,484.91</u>	<u>5,895.00</u>
	443.09	0.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 443.09</u>	<u>\$ 0.00</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Contractor Licensing Board Fund - Employee Benefits - Fund 3187-010</u>		
Appropriations	\$282,828.00	\$281,012.00
Expenditures	<u>252,805.71</u>	<u>253,694.48</u>
	30,022.29	27,317.52
Transmittals Paid After June 30	<u>19,218.89</u>	<u>19,675.62</u>
Balance	<u>\$ 49,241.18</u>	<u>\$ 46,993.14</u>
<u>Contractor Licensing Board Fund – Unclassified - Fund 3187-099</u>		
Appropriations	\$780,063.00	\$781,572.00
Expenditures:		
Current Expenses	512,752.85	575,821.17
Repairs and Maintenance	1,436.09	5,215.08
Equipment	<u>45,256.88</u>	<u>48,729.80</u>
	<u>559,445.82</u>	<u>629,766.05</u>
	220,617.18	151,805.95
Transmittals Paid After June 30	<u>54,043.82</u>	<u>30,995.59</u>
Balance	<u>\$274,661.00</u>	<u>\$182,801.54</u>

WEST VIRGINIA DIVISION OF LABOR

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

CASH CONTROL - FUND 3187-999

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
Beginning Balance:		
State Treasury	\$ 132,195.32	\$ 307,608.99
Cash Receipts:		
Contractor Licensing Fees	1,560,873.17	1,449,890.00
Fines and Penalties	40,705.00	22,840.00
Miscellaneous	<u>54,651.00</u>	<u>2,655.00</u>
	1,656,229.17	1,475,385.00
TOTAL CASH TO ACCOUNT FOR	<u>\$1,788,424.49</u>	<u>\$1,782,993.99</u>

	Year Ended June 30,	
	<u>1997</u>	<u>1996</u>
Ending Balance:		
State Treasury	\$ 280,012.26	\$ 132,195.32
Disbursements:		
Personal Services	709,267.29	704,045.39
Annual Increment	9,484.91	5,895.00
Employee Benefits	252,805.71	253,694.48
Current Expenses	512,752.85	575,821.17
Repairs and Alterations	1,436.09	5,215.08
Equipment	<u>45,256.88</u>	<u>48,729.80</u>
	1,531,003.73	1,593,400.92
Add Transmittals Paid July 1-31 Beginning; and (Less) Transmittals Paid July 1-31 Ending:		
Personal Services	0.00	0.00
(Personal Services)	0.00	0.00
Employee Benefits	19,675.62	20,672.38
(Employee Benefits)	(19,218.89)	(19,675.62)
Current Expenses	25,804.51	75,156.31
(Current Expenses)	(50,010.98)	(25,804.51)
Repairs and Alterations	480.00	820.72
(Repairs and Alterations)	0.00	(480.00)
Equipment	4,711.08	11,419.55
(Equipment)	<u>(4,032.84)</u>	<u>(4,711.08)</u>
	<u>(22,591.50)</u>	<u>57,397.75</u>
	1,508,412.23	1,650,798.67
TOTAL CASH ACCOUNTED FOR	<u>\$1,788,424.49</u>	<u>\$1,782,993.99</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Elevator Safety Fund - Personal Services - Fund 3188-001</u>		
Appropriations	\$185,205.00	\$183,000.00
Expenditures:		
Personal Services	131,285.75	171,745.60
Social Security Matching	<u>847.29</u>	<u>1,154.63</u>
	<u>132,133.04</u>	<u>172,900.23</u>
	53,071.96	10,099.77
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 53,071.96</u>	<u>\$ 10,099.77</u>
<u>Elevator Safety Fund - Annual Increment - Fund 3188-004</u>		
Appropriations	\$ 2,249.00	\$ 1,589.00
Expenditures	<u>822.50</u>	<u>1,420.46</u>
	1,426.50	168.54
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$ 1,426.50</u>	<u>\$ 168.54</u>

WEST VIRGINIA DIVISION OF LABOR
STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
SPECIAL REVENUE

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
<u>Elevator Safety Fund - Employee Benefits - Fund 3188-010</u>		
Appropriations	\$ 66,438.00	\$ 66,058.00
Expenditures	<u>47,216.19</u>	<u>59,698.97</u>
	19,221.81	6,359.03
Transmittals Paid After June 30	<u>3,761.89</u>	<u>3,831.87</u>
Balance	<u>\$ 22,983.70</u>	<u>\$ 10,190.90</u>
<u>Elevator Safety Fund – Unclassified - Fund 3188-099</u>		
Appropriations	\$289,328.00	\$289,363.00
Expenditures	<u>0.00</u>	<u>0.00</u>
	289,328.00	289,363.00
Transmittals Paid After June 30	<u>0.00</u>	<u>0.00</u>
Balance	<u>\$289,328.00</u>	<u>\$289,363.00</u>

WEST VIRGINIA DIVISION OF LABOR

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

CASH CONTROL - FUND 3188-999

	<u>Year Ended June 30,</u>	
	<u>1997</u>	<u>1996</u>
Beginning Balance:		
State Treasury	\$ 64,462.92	\$ 4,775.00
Cash Receipts:		
Elevator Registrations	60,300.00	67,300.00
Elevator Inspections	144,600.00	160,775.00
Miscellaneous	15.00	0.00
Transfer from Elevator Safety Act Fund - Fund 3189-640	<u>0.00</u>	<u>61,800.71</u>
	204,915.00	289,875.71
TOTAL CASH TO ACCOUNT FOR	<u><u>\$269,377.92</u></u>	<u><u>\$294,650.71</u></u>


	Year Ended June 30,	
	<u>1997</u>	<u>1996</u>
Ending Balance:		
State Treasury	\$ 89,136.21	\$ 64,462.92
Disbursements:		
Personal Services	131,285.75	171,745.60
Annual Increment	822.50	1,420.46
Employee Benefits	48,063.48	60,853.60
Current Expenses	0.00	0.00
Repairs and Alterations	0.00	0.00
Equipment	<u>0.00</u>	<u>0.00</u>
	180,171.73	234,019.66
Add Transmittals Paid July 1-31 Beginning; and (Less) Transmittals Paid July 1-31 Ending:		
Personal Services	0.00	0.00
(Personal Services)	0.00	0.00
Employee Benefits	3,831.87	0.00
(Employee Benefits)	(3,761.89)	(3,831.87)
Current Expenses	0.00	0.00
(Current Expenses)	0.00	0.00
Repairs and Alterations	0.00	0.00
(Repairs and Alterations)	0.00	0.00
Equipment	0.00	0.00
(Equipment)	0.00	0.00
	<u>69.98</u>	<u>(3,831.87)</u>
	180,241.71	230,187.79
TOTAL CASH ACCOUNTED FOR	<u>\$269,377.92</u>	<u>\$294,650.71</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 18th day of April, 1999.



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 West Virginia Division of Labor; Governor; Attorney General; and State Auditor.