

Full Performance Review

West Virginia State Police

**The State Police Continues to Operate
Insolvent and Unauthorized Benefit Plans**



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John Sylvia
Director

June 9, 2003

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable J. D. Beane
House of Delegates
P. O. Box 4275
Parkersburg, West Virginia 26104

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a *Preliminary Performance Review of the West Virginia State Police*, which will be presented to the Joint Committee on Government Operations on Monday, June 9, 2003. The issue covered herein is "The West Virginia State Police Continues to Operate Insolvent and Unauthorized Benefit Plans."

We transmitted a draft copy of the report to the West Virginia State Police on May 22, 2003. We held an Exit Conference with the State Police on May 27, 2003. We received the agency response on June 2, 2003.

Sincerely,

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

John Sylvia

JS/wsc

Joint Committee on Government and Finance

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Executive Summary

Issue 1 **The State Police Continues to Operate Insolvent and Unauthorized Benefit Plans.**

The West Virginia State Police operate and manage two benefit plans which are not authorized by the Legislature. These plans were created to provide a death benefit (Contribution Fund) and a retirement benefit (Pledge Fund) in 1951 and 1963 respectively and are maintained in outside bank accounts. These plans were created by the State Police without statutory or legislative authority, despite the fact that the State Police have had legitimate death, disability and retirement funds since 1935.

There is currently a 24 month waiting list for payout because of insufficient funds to pay 47 retirees on the waiting list. Pledge members currently only receive close to half of their plan contributions.

Members contribute \$5 or \$10 dollars a pay period to the Pledge Fund Plan to maintain their membership. Retiring members receive their level of contribution times the number of members at their retirement. There is currently a 24 month waiting list for payout because of insufficient funds to pay 47 retirees on the waiting list. Pledge members currently only receive close to half of their plan contributions. The Contribution Fund Plan has no waiting list for payment. Members contribute \$5 to a designated beneficiary upon the death of a plan member. The State Police estimate these plans bear a combined underfunded membership liability of as much \$1.2 million. There have been no financial audits of the plans.

The State Police estimate these plans bear a combined underfunded membership liability of as much \$1.2 million. There have been no financial audits of the plans.

Both Pledge and Contribution payments have dropped by 35% and 18%, respectively, over the past 8 years because membership continues to decline as a result of voluntary withdraws from the plans, retirements and the current Superintendents halt on new membership. The plans are structured as pyramid schemes, where the only wealth that is generated is wealth lost by other members. Plan participation continues to be a losing proposition for members who lose money with every payment to the accounts.

Review Objective, Scope and Methodology

This Full Performance Review of the West Virginia State Police is authorized and required by B4-10. The State Police was created in 1919 under B15-2-1 of the West Virginia Code. The agency's structure is quasi-military, utilizing a rank system and training methods similar to the U.S. Military. Detachments of officers are located throughout the state. The mission of the State Police is:

...Statewide enforcement of criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state and maintaining the safety of the state's public streets, roads and highways.

Objective

The objective of this review is to examine the State Police's management of certain outside bank accounts and to determine the level of compliance with prior recommendations as addressed in the April 2000 report.

Scope

This further inquiry update covers the period from April 2000 to the present. Due to the condition of the bank accounts, the Legislative Auditor determined that further inquiry was necessary.

Methodology

The Legislative Auditor reviewed financial information from the State Treasurer's Office, the State Auditor's EPICS payroll system and from the State Police. Opinions were sought from the Internal Revenue Service and other federal agencies. All aspects of this report comply with Generally Accepted Government Auditing Standards (GAGAS) as set forth by the Comptroller General of the United States.

Issue 1

The State Police Continues to Operate Insolvent And Unauthorized Benefit Plans.

Issue Summary

There is currently a 24 month waiting period for payouts from the Pledge plan because of insufficient funds to pay 47 retirees on the waiting list.

The State Police operate and manage two benefit plans to provide a Contribution Fund (death benefit) and Pledge Fund (retirement benefit) for participating employees. For example, members who pay \$10 per pay period to the Pledge Fund to maintain their membership expect to receive a one-time cash payment at the time of retirement that equals \$10 from every participant at the time of retirement. Those who pay \$5 per pay period to the Contribution Fund to maintain their membership expect a one-time cash payment to be paid to a beneficiary upon the death of that member that equals \$5 from every participant at the time of death. The Pledge and Contribution Plans were created in 1951 and 1963, respectively. However, these plans were created by State Police officials, without statutory authority even though State Police employees had a death and disability fund created by the Legislature in 1925 and amended to include retirement in 1935.

The State Police estimate these plans bear a combined under-funded membership liability of as much as \$1.2 million.

The State Police estimate these plans bear a combined under-funded membership liability of as much as \$1.2 million. The Contribution Fund and Pledge Fund Plans have never had a financial audit. There is currently a 24 month waiting period for payouts from the Pledge plan because of insufficient funds to pay 47 retirees on the waiting list. In addition, the payments received from both plans have not been reported to the IRS or the State Tax Department as individual income in the form of a 1099 or W-2.

The structure of these plans are pyramid schemes where participants who joined shortly after the plans were created received more than what they contributed. However, those who join long after the plan was created will receive less than what was contributed. This is true because the payment received depends on the number of participants at the time of retirement. Over time, if membership growth is flat, then as people retire the number of participants will either remain the same or decline depending on if retirees are replaced. **Currently, Pledge Fund members receive close to half of what they contributed to the plan.** Both the Pledge and Contribution payments have dropped by 35% and 18%, respectively over the past 8 years primarily because membership continues to decline due to deaths, retirements and the voluntary withdraws by members who recognized the instability as well as the financial disadvantages of participating in the plans. The current State Police

Superintendent halted new membership into these plans in January 2003 by not allowing any new State Police employees the option of participation. This action will further reduce the one-time payments for those who are still contributing into the plan.

Voluntary Retirement Pledge Fund

The Voluntary Retirement Pledge Fund (Pledge Fund) is a plan described as a retirement benefit plan. The plan, created in 1963, was designed to provide a participating member with a one time cash payment upon retirement at the rate of \$5 per active member. A member may either be a current or retired State Police employee who signed a contractual agreement upon employment with the State Police and has not yet received payment from the plan. The membership contribution amount was raised from \$5 to \$10 in 1986 to allow for larger payouts; however, those not wishing to increase their contribution were allowed to remain at the \$5 contribution and pay-out level. As of April 2003, there were 240 members, including 193 active and 47 retired employees who have not yet received payment. Currently, all but 11 members contribute at the \$10 a pay period rate. Payments can be made through the EPICS (state) payroll system.

Unlike legitimate state retirement plans, members of the Pledge Fund receive no benefits upon early withdrawal and are not periodically informed of their anticipated payments to date.

The retirement payment is dependent on the total number of participants in the plan at the time of an individual participant's retirement. For example, a member participating at the \$10 level would receive \$1,000 if there were 100 members participating at the time of his or her retirement, no matter how much the individual employee contributed to the plan. Notwithstanding the 11 members contributing at the \$5 level, **the retirement payment bears no relationship to the total amount the participant has contributed over his or her years of employment.** Though members are eligible for payment at the time of their retirement, there is a payment backlog of approximately two years. Retirees are paid in the order in which they retired. Unlike legitimate state retirement plans, members of this fund receive no benefits upon early withdrawal and are not periodically informed of their anticipated payments to date. The Pledge Fund membership contract is available in Appendix B.

Contribution Fund

The Contribution Fund is a plan created in 1951 to provide a death benefit for designated beneficiaries. A member may either be a current or retired State Police employee who signed a contractual agreement upon employment with the State Police indicating they will pay \$5 upon the death of

other members in order to receive a payment for their own beneficiaries. There are no payroll deductions for payments. The State Police Accounting Section notifies members upon the death of a participating member and the remaining members pay \$5 dollars to the plan. The payments are totaled and the amount collected is remitted by check to the designated beneficiary. In April 2003, there were 673 members, including 231 active and 442 retired State Police employees.

The beneficiary payment is dependent on the total number of participants at the time of an individual participant's death. For example, as all members participate at a \$5 level, an individual's beneficiary would receive \$2,500 if there were 500 participating members upon the participant's death, no matter how much the individual employee paid into the plan. There is no backlog of beneficiaries awaiting payment from this plan. Like the Pledge Fund, members receive no financial compensation upon early withdrawal and are not periodically informed of their anticipated payments. The Contribution Fund membership contract is available in Appendix C.

Plan Structures Are Pyramid Schemes

A constant influx of new members is required for a pyramid scheme to work. These plans, like pyramid schemes in general, must fail because there is a finite number of potential participants and because no new wealth is created.

Pay-outs from both plans have decreased over the years due to the very structure of the plans, which are essentially pyramid schemes. In these schemes a hierarchy is created, often with a central administrator, as in the case of the State Police. Individuals join the hierarchy, or in this case the two funds, and make payments to those above them in the hierarchy with the expectation of being able to collect payments from those who join the hierarchy after them. A constant influx of new members is required for a pyramid scheme to work. However, the schemes only work for those at the first few levels, such as those near retirement (or death) when the funds were initiated and when the Pledge contribution was raised from \$5 to \$10 a pay period. These plans, like pyramid schemes in general, must fail because there is a finite number of potential participants and because no new wealth is created.

Superintendent Halted New Enrollment January 2003

The enrollment of new members in either of these funds will only delay the failure of these plans. The Superintendent of the State Police effectively ended the influx of new participants. In a letter to Fund members he stated:

In January of this year I was faced with a dilemma, as we employed the Cadet Troopers who are members of the 51st and 52nd Cadet Classes, currently training at the Academy. After careful deliberation, I elected not to offer the two programs to the members of the classes. I reached this decision based on the logic that enrolling new members to either fund would only serve to perpetuate the unauthorized activity identified in the auditor's report.

New membership will only delay the eventual failure of the plans.

The Legislative Auditor is concerned that a future Superintendent could reverse policy at a later date and allow new members to participate in these plans. Payments from existing participants continue. However, the lack of new participants will decrease the one-time cash payout amount for the remaining participants. New membership would only delay the eventual failure of the plans.

State Police Plans Are Not State Funds

The Legislative Auditor first became aware of these plans in 2000, when a State Trooper sued in the Court of Claims for reimbursement for monies allegedly deducted from the Trooper's payroll without the Trooper's consent. The Court of Claims determined that the Department of Public Safety Retirement Voluntary Pledge Fund is not a state entity, as it does not have a legislative framework and it does not receive state funds for any purpose. Therefore, the Court lacked jurisdiction to compel reimbursement.

The State Treasurer's Office approved the plans outside bank accounts in 1998, as they *appeared to meet the definition of allowable accounts.* The Assistant State Treasurer stated in January 2002 that:

Based upon our review of these two outside bank accounts, we have determined that these accounts neither contain funds that are due the state as defined by West Virginia Code Section §12-2-2 nor are they funds that should be under the control and administration of the State Police. Therefore, we believe that these two accounts should be removed from our list of approved outside bank accounts that are authorized under West Virginia Code Section §12-2-3.

The Assistant State Treasurer informed the Legislative Auditor in April 2003 that:

...based upon information we have since obtained, it is my belief that these accounts contain funds that are not the responsibility of the State Police or the State of West Virginia, but the FEIN number being used for these accounts does belong to the State Police.

The State Treasurer's Office informed the Legislative Auditor on May 30, 2003 that it was revoking its authorization of the accounts.

The State Treasurer's Office informed the Legislative Auditor on May 30, 2003 that it was revoking its authorization of the accounts. A copy of the letter is available in Appendix D.

Payments Not Reported As Taxable Income In Violation of Federal and State Laws

The Internal Revenue Service determined that the Pledge Plan arrangement does not appear to meet the requirements for favorable tax treatment.

The State Police has never reported payments from the Contribution or Pledge Plans as taxable income. The Legislative Auditor contacted the Internal Revenue Service (IRS) and determined the State Police Pledge Plan arrangement does not appear to meet the requirements for favorable tax treatment. Retirement plans must meet some very specific requirements under the Internal Revenue Code. The State Police Pledge Plan does not seem to meet requirements for qualification. The IRS also added:

Even if the payments from this retirement instrument do not constitute payments from an employee benefit plan, such payments do not appear to constitute the receipt of mere gifts, given the fact that the recipient appears to have an expectation of receiving property in exchange for the recipient's own contribution to the account.

Furthermore, the IRS stated that the distributions from the plans may be taxable under rules that apply to non-qualified plans. The April 2000 PERD State Police report stated contributions to the Pledge Fund might be taxable income. However, no 1099s or W-2s have been issued to participants receiving benefits from the Pledge Fund.

Better Investment Options Are Available For State Police Employees

Pledge Fund

Currently, Pledge Fund members receive close to half of what they contribute to the plan.

The State Police believe retiring Pledge Fund members ceased to break even five to six years ago, meaning the retirees payments were less than payments received. **In the past eight years, the payout amount from the Pledge Fund has decreased 35%, whereas the payout amount from the Contribution Fund decreased 18% while individual payments to both plans have remained stable.** Currently, Pledge Fund members receive close to half of what they contribute to the plan. In addition, Pledge Fund payments could have earned anywhere from \$484 to \$2,346 in additional income, depending on the interest rate, over the past 20 years. In fact, the total additional income earned on tax deferred investment options other than the Pledge Fund would achieve a greater return. A detailed analysis of Pledge Fund payments and losses is provided in Table 1.

Table 1 Pledge Fund Income Losses				
Interest Rate	Cumulative Payments*	Potential Interest Earnings on Cumulative Payments**	Actual Payment Received***	Lost Contribution and Interest Income
1%	\$4,800	\$484	\$2,420	-\$2,864
2%	\$4,800	\$1,031	\$2,420	-\$3,411
3%	\$4,800	\$1,648	\$2,420	-\$4,028
4%	\$4,800	\$2,346	\$2,420	-\$4,726
<p>*This analysis assumes that members make 24 payments annually, for a total of \$240 a year for 20 years. The analysis also uses the \$10 a pay period contribution rate as only 11 individuals contribute at the \$5 rate. **Interest earnings based on annual compounding. ***Actual distribution as of March 2003. Source: 2003 PERD analysis of information provided by the State Police.</p>				

Contribution Fund

As of March 2003, the Contribution Fund paid over \$2,000 more than any individual member contributed to it. However, other life insurance options exist through the PEIA Active Employees or Retired Policy Holders Optional Life Insurance Benefits. Members contribute an average of \$26.40 a year or \$2.20 a month to the Contribution Fund Plan. Table 2 shows what similar financial investments can provide to a State Police employee.

Table 2		
Comparison of State Police Contribution Plan to Legitimate State Insurance Programs		
	Monthly Contribution	Benefit Received
Contribution Plan Participant	\$2.20***	\$3,440
PEIA Active Employee*	\$1.63	\$5,000
State Police Retired Employee**	\$1.89	\$5,000

* Assumes an age of 50 to 54 years old.
** Also assumes an age of 50 to 54 years old.
*** Average monthly contribution for past 52 years.
Source: 2003 PERD Analysis

Under-funded Membership Liability Estimated To Be As Much As \$1.2 Million

In February 2002, the Superintendent of the State Police estimated the current membership had contributed approximately \$1.2 million to the Pledge and Contribution Plans. However, only approximately \$10,000 was available for distribution. The Superintendent noted in a February 2002 memorandum to the Cabinet Secretary of Military Affairs and Public Safety that:

The contributions reflected...are not purported to be exact. Given the nature of the records which are available, and the number of years which this program has been in operation, it would be difficult bordering on impossible to make an exact calculation of what each individual has paid into the fund. It is the belief of my staff, however, that the amounts reflected here are an equitable representation of the situation.

The Legislative Auditor believes this lack of funding, combined with no new membership effective January 2003, will lead to the total insolvency of these plans.

Neither the Pledge or Contribution Funds have ever had a financial audit. As a result, the Legislative Auditor cannot offer an opinion on the integrity of the plan's internal control structure.

Conclusion

The Legislative Auditor first addressed these unauthorized plans in April 2000 and recommended that the State Police transfer responsibility for the plans to a private organization such as the State Trooper's Association. The State Trooper's Association refused to assume any responsibility for the plans due to their financial instability. Both the Pledge and Contribution pay outs are dropping as membership continues to decline. **Plan participation continues to be a losing proposition for State Police employees who lose money with every payment made into these plans.** Although the efforts were unsuccessful, in early 2002 State Police Senior Management met with legislators and legislative staff in an attempt to resolve the ongoing Pledge and Contribution Plan concerns. In fact, the current State Police Superintendent halted new membership into these plans in January 2003. As noted in the April 2000 PERD report, the management of these plans continues to be in violation of the state Constitution which prohibits public employees from conducting private business on state property and state time. Although it is estimated these plan's membership bears an under-funded liability of as much as \$1.2 million, participants are themselves responsible for choosing to make payments to plans not created by the Legislature and therefore not guaranteed.

The participants are themselves responsible for choosing to make payments to plans not created by the Legislature and therefore not guaranteed.

Compliance with Prior Recommendations

The Legislative Auditor released a report in April 2000 addressing the Pledge and Contribution Plans. In that report, the Legislative Auditor made four recommendations. Those recommendations and the State Police's level of compliance are as follows:

Recommendation 1

The State Police should consider transferring the responsibility for the Pledge and Contribution Funds to a private organization such as the State Troopers Association.

Level of Compliance: In Compliance

The State Police attempted to transfer this responsibility to the State Troopers Association. However, the Association declined to accept any responsibility for either of these funds.

Recommendation 2

If the State Police chooses not to implement Recommendation 1, the State Police should establish an IRS approved non-profit organization, similar to the WVU Foundation, to administer these funds, or request the Legislature to statutorily establish these programs.

Level of Compliance: In Compliance

The State Police believes establishing a non-profit organization is unfeasible, presumably due to the insolvency of the funds. Additionally, the State Police discussed statutorily authorizing these funds with legislative leadership. These discussions ultimately proved to be unsuccessful.

Recommendation 3

The State Police should immediately cease the use of state employees to administer and maintain the records of these funds on state property and state time.

Level of Compliance: Non Compliance

State Police employees are still administering the funds. These funds as well the use of state employees time to administer and maintain the records of these funds both remain illegal.

Recommendation 4

The State Police should immediately eliminate the state's name from the accounts.

Level of Compliance: Non Compliance

The State Police have not removed the state's name from the outside bank accounts, despite the fact that the accounts have not been authorized by the Legislature.

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

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



John Sylvia
Director

May 22, 2003

Howard Hill, Superintendent
West Virginia State Police
725 Jefferson Road
South Charleston, West Virginia 25309-1698

Dear Colonel Hill:

This is to transmit a draft copy of the Full Performance Evaluation of the West Virginia State Police. This report is scheduled to be presented at the Sunday, June 8, 2003 interim meeting of the Joint Committee on Government Operations. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to schedule the meeting on any date on or before May 28, 2003. Please notify us to schedule an exact time. In addition, we need your written response by noon on May 30, 2003 in order for it to be included in the final report. If your agency intends on distributing additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, June 5, 2003 to make arrangements.

We request that your personnel treat the draft report as confidential and that it not be disclosed to anyone not affiliated with the agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.
John Sylvia

Joint Committee on Government and Finance

Appendix B Voluntary Pledge Fund

WVSP 7A (REVISED 3-15-00)

WEST VIRGINIA STATE POLICE RETIREMENT VOLUNTARY PLEDGE FUND

1. I, the undersigned employee of the West Virginia State Police, hereby promise to pay ten dollars (\$10) to each member and civilian employee of the West Virginia State Police who retires from the State Police while I am a member of the Voluntary Pledge Fund, subject to provisions 2 through 8.
2. Any member or civilian employee of the State Police will be eligible to receive benefits from the Retirement Voluntary Pledge Fund provided: (1) he or she has served twenty (20) years or more with the State Police; (2) regardless of length of service, if he or she is forced to retire from the State Police as a result of injuries received in line of duty and is retired by the Consolidated Public Retirement Board; (3) regardless of length of service, if he or she is forced to retire from the State Police as a result of illness or injury not received in line of duty and is retired by the Consolidated Public Retirement Board; (4) regardless of length of service, should the participating member die while an active member or civilian employee of the West Virginia State Police.
3. Any member or civilian employee who has retired or has been separated from the State Police and has received benefits from the Retirement Voluntary Pledge Fund shall not again be eligible if later reappointed, reinstated or reemployed. Former employees of the West Virginia State Police who have been reemployed may join the Retirement Voluntary Pledge Fund only if they were members of the fund during their original employment period.
4. Payments are to be made within fifteen (15) days after issuance of a Department Notice requesting said payment. All checks are to be made payable to the Department of Public Safety Pledge Fund. Commanding Officers are authorized to make collections from contributing members or civilian employees and forward them to the Accounting Office. Commanding Officers will be furnished with the names of all contributing members or civilian employees. As an alternative to payment by check and when possible, payments will be made by payroll deduction. Authorization for payroll deduction is granted by signature below.
5. In the event any member fails to contribute, such member automatically eliminates himself from participating in the Retirement Voluntary Pledge Fund.
6. The payments herein promised are to be made only with respect to members and civilian employees of the West Virginia State Police who have executed this agreement.
7. The Accounting Office, under the supervision of the Superintendent, shall keep a proper and accurate account of all receipts and expenditures.
8. Arrangements will be made with the management of the depository whereby the signature of any two (2) Senior Staff, that is, the Superintendent, Lieutenant Colonel, Major(s), or the Comptroller, shall be honored on checks for withdrawal of said Retirement Voluntary Pledge Fund.

Signed this ____ day of _____, 20__

SIGNATURE

RENEFICIARY: _____

RELATIONSHIP: _____

Appendix C The Contribution Fund

CONTRIBUTION ACCOUNT

I accept membership in the West Virginia State Police Contribution Fund and as a participating member, the following designation of beneficiary is hereby made effective this date:

<u>EFFECTIVE DATE</u>	<u>MEMBER</u>
BENEFICIARY:	_____
ADDRESS:	_____
RELATIONSHIP:	_____

Appendix D State Treasurer's Letter



State of West Virginia

OFFICE OF THE STATE TREASURER
CHARLESTON, WV 25305

JOHN D. PERDUE
STATE TREASURER

JERRY SIMPSON
ASSISTANT STATE TREASURER

May 30, 2003

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David Mullins
Research Manager
West Virginia Legislature
Performance Evaluation and Research Division
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Charleston, West Virginia 25305-0610

Dear Mr. Mullins:

State Treasurer John D. Perdue is in receipt of your letter dated May 12, 2003 concerning the State Police's Pledge and Contribution Funds. The accounts in question were originally requested by the State Police and were established under its FEIN. While it is our recommendation that the responsibility for these accounts be transferred outside of state government, a responsible party has not been identified by the State Police.

Since our office has determined that these are not outside bank accounts as authorized by West Virginia Code § 12-2-3, our office is therefore revoking the authority granted to the State Police to have these accounts, which will require Joe Martin, Secretary of Military Affairs and Public Safety to direct Colonel Howard Hill, Superintendent of the State Police to close these accounts.

If you have any additional questions, please call me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jerry Simpson".

Jerry Simpson
Assistant Treasurer

Appendix E: Agency Response



West Virginia State Police
725 Jefferson Road
South Charleston, West Virginia 25309-1698
Executive Office

May 28, 2003

Bob Wise
Governor

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

Colonel H. E. Hill, Jr.
Superintendent

RECEIVED
JUN 02 2003

PERFORMANCE EVALUATION AND
RESEARCH DIVISION

Dear Sir:

I am in receipt of your most recent audit report regarding the State Police Pledge and Contribution Fund Programs. Having had an opportunity to review the report and discuss it at some length with your staff, I am writing to express my appreciation for its thorough explanation of the facts. My staff nor I have found anything in the report which was not, in our opinion, factually correct.

In regard to the recommendations, particularly Recommendations #3 and #4, I would like to provide some additional information. I was appointed Superintendent in March 2001, nearly one year after the original audit was conducted and these recommendations were made. When I became aware of them and the potential problems associated with instituting them, my staff and I sought a solution through a series of meetings with representatives from the Legislature and the State Treasurer's Office. No acceptable solution was found, which would allow the programs to continue to operate, and I offered to halt both programs immediately, thereby complying with the recommendations. Only at the direction of the Committee Chair, Ms. Vicki Douglas, did I elect to continue the programs until a workable solution could be found. If the Committee determines we have reached a point that the programs should be terminated, my offer remains on the table.

Thank you for your assistance regarding this important matter and I look forward to working with you and your staff toward a solution to this problem.

Sincerely,

A handwritten signature in black ink, appearing to read "H.E. Hill Jr.".

Colonel Howard E. Hill Jr.
Superintendent

HEH/sct

Equal Opportunity Employer

