

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

FOR THE PERIOD

JULY 1, 1974 - JUNE 30, 1981

West Virginia



LEGISLATIVE AUDITOR

CHARLESTON

The Honorable Encll Bailey
Legislative Auditor
State Capitol - West Wing
Charleston, West Virginia

Sir:

In compliance with your instructions and the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the Office of the Workmen's Compensation Commissioner.

Our examination covers the period July 1, 1974 through June 30, 1981. The results of the examination are set forth on the following pages of this report. However, only the financial statements for the years ended June 30, 1981 and June 30, 1980 are included in this report. The financial statements covering the period July 1, 1974 through June 30, 1979 are included in the audit workpapers.

Respectfully submitted,

A handwritten signature in cursive script that reads "Thedford L. Shanklin".

Thedford L. Shanklin, CPA, Director
Legislative Postaudit Division

TLS/chw

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

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OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

ACKNOWLEDGMENT

We extend our thanks and appreciation to the Commissioner and her staff for their cooperation in supplying information necessary in preparing this report.

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

EXIT CONFERENCE

We held an exit conference on November 29, 1983 with the Commissioner and Executive Secretary and all findings and recommendations were reviewed and discussed. The Commissioner's responses are included in the Summary of Findings, Recommendations and Responses and after our recommendations in the following General Remarks.

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

INTRODUCTION

The Workmen's Compensation Fund was established by the West Virginia Legislature in 1913, Chapter 23, Articles 1-6, West Virginia Code, as amended. The Fund is administered by the State Workmen's Compensation Commissioner who is appointed by the Governor. The idea of a Workmen's Compensation Fund was initially placed under the Administration of the Public Service Commission in 1913 by Chapter 10 of the Acts of the West Virginia Legislature. The Fund was established to provide a prompt and equitable system of compensation for injury or illness sustained in the course of and growing out of employment. The Fund is monopolistic in nature and benefits obtainable encompass those received because of industrial accident, occupational pneumoconiosis, and occupational disease. This State-managed insurance fund protects the employer from direct liability from the employee and allows both regular subscription and self-insurance.

Workmen's Compensation is supported entirely by employer premium. Employers are grouped into classes and manual rates are established based on the average accident experience of the group. Types of benefits and services available are medical disability, temporary total, permanent partial award, permanent total, rehabilitation, travel and death benefits.

The Fund is organized into eight divisions to carry out its function. The divisions are as follows: Administrative, Claim Services, Legal, Operations, Data Processing, Claims Management, Accounting (Employers Accounts), and Occupational Pneumoconiosis.

The Administrative Division provides the support services necessary to operate the Workmen's Compensation Fund. The sections included in this Division are Personnel, Business Office, Procurement, Print Shop, Information and Education, Mailroom, and Payroll/Timekeeping.

The Claims Services Division is the primary communication link for external constituents of the Workmen's Compensation Fund who wish to inquire about the status of individual claims or seek clarification of existing policies and procedures.

The Legal Division provides legal counsel and advisory support to the Commissioner in all operating units of the Workmen's Compensation Fund. This Division is responsible for all litigated claims, including duties of protest acknowledgment, setting dockets, and conducting hearings in all administrative matters pertaining thereto. Legal support personnel also provides court reporting services for Charleston and Huntington dockets. The adjudicatory function of the Fund is performed by this Division at the direction of the Commissioner, with specific responsibility for initial ruling and rulings on petitions for modification and submitted claims. Abstracts are also prepared in this Division for cases appealed to the Workmen's Compensation Appeal Board.

The function of the Operations Division is to process work related injury claims, make payment of benefits, maintain financial status of fund, maintain statistical data of claims, microfilms all records, and maintain all hard copy claim records, review claims exceptions, update all lost-time disability payments, prepares annual reports, and maintain bonds for self-insured subscribers.

The Data Processing Division consists of four sections. The Analysis and Programming Section is responsible for development, maintenance and design of the data processing system. The Quality Control Section is responsible for submitting scheduled data processing jobs and monitoring of scheduled generated computer reports. The Coding Section is responsible for providing control and coding various documents received by the Fund. The Data Entry Section is responsible for nearly 90% of all entries made to the computer system by use of terminals.

The Claims Management Division consists of three sections. The Rehabilitation Section reviews files of the long term disabled to determine if claimants may benefit from vocational rehabilitation, authorizes and interprets necessary testing to determine vocational potential, and works in coordination with the Division of Vocational Rehabilitation in the management of claims. The Medical Exceptions Section is responsible for correcting all charges made in error against the employer, for all returned medical checks and pay orders, for seeing that all "New System" travel bills are audited, processed and entered on the system, for any bills which, through normal channels, cannot be processed for payment, and to see that bills already entered in the system are corrected so that they will be paid. The Medical Section reviews medical data in order to determine entitlement to Workmen's Compensation benefits, counsels claimants, employers, and legal representatives as to their rights and responsibilities, authorizes treatment and care, dispenses medical information to those individuals involved in advising them of the nature of injury and treatment, performs research for decision making in regard to active claims and maintains records of medical related transactions.

The Accounting Division consists of ten sections: Processing, New Applications, Successions/Reinstatements, Terminations/Refunds, Rates, Quality Control, Fiche, Auditing, Delinquencies, and Field Representatives.

The primary responsibilities of the Accounting Division are to enroll and terminate employers in the system; collect employers' premiums due the Fund; update the employer accounts so ISSD can bill the employer each quarter; and, collect premiums due the Fund from delinquent employers.

The Occupational Pneumoconiosis Division's function is to process all claims which are filed under the laws of the Workmen's Compensation Fund. They are responsible for the following areas of claim management:

1. Initial review and orders;
2. Setting examinations;
3. Transmitting findings;
4. Handling of protests;
5. Setting dockets for hearing and making referrals for additional medical examinations;
6. Processing transcripts;
7. Final review and orders; and,
8. Monitoring of appeals.

This Division receives approximately 2,000 new claims a year and all claims are referred to the Occupational Pneumoconiosis Board for examinations.

The Workmen's Compensation Commission also serves as administrator of the Coal Worker's Pneumoconiosis Fund, a reserving system for employers' liability under the Federal Coal Mine Health and Safety Act of 1969, as amended. This program is directly separate from the State Workmen's Compensation Program. Coal mine operators and other employers whose employment provides exposure to the hazards of occupational pneumoconiosis may elect to contribute to the Fund at levels set by the Commissioner. Claims are paid upon a directive of the United States Department of Labor after entitlement of benefits is determined under the Federal Act.

This report contains a summary of the activities and financial data of the West Virginia Workmen's Compensation Fund for the period ending June 30, 1981. Currently, the Fund has approximately 38,000 regular subscribers and 131 self-insured employers. A total of 548,982 employees are covered by regular subscribers and 103,429 by self-insured. These are the average number of employees reported by employers. Total wages reported by the employers for the period ending June 30, 1981 was \$8,603,423,311.60 of which \$5,832,232,765.09 was reported by regular subscribers and \$2,771,190,546.51 by self-insured subscribers. The Fund received \$139,722,325.06 in premiums from regular subscribers and \$19,525,077.69 in assessments from the self-insured subscribers. During the period, a total of 54,428 accidents were reported by regular employees and 22,178 from self-insured

employees. The Fund paid a total of \$113,218,548.37 in benefits from the regular Fund and \$67,257,039.72 in benefits was paid by self-insured subscribers.

Presently, 3,572 widows, 1,123 children, 3,540 permanently and totally disabled workers, and 1,605 permanent partial disabled workers are receiving benefits from the Fund. The maximum monthly benefits paid to widows during the year was \$1,138.80.

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER
COMMISSIONER AND ADMINISTRATIVE STAFF

As of June 30, 1982, the Workmen's Compensation Fund staff consisted of three hundred and forty-six employees. All employees are covered by the West Virginia Civil Service System except the Commissioner, the Executive Secretary, three Appeal Board Members, thirteen 90-day exempt employees and fourteen other employees.

During the period covered by the audit, the Fund was under the following Commissioners:

B. Frederick Becker	June 3, 1974 - January 17, 1977
George D. Blizzard	January 18, 1977 - March 31, 1980
Gretchen O. Lewis (Acting)	April 1, 1980 - July 6, 1980
Gretchen O. Lewis	July 7, 1980 - Present

The Administrative Staff at the close of the audit period was as follows:

William Mitchell	Executive Secretary
Mary Bowman	Director, Administrative/Claim Service
Don Hall	Director, Legal Division
Alex Pollitt	Director, Operations Division
Frank Cipolat	Director, Data Processing Division
John Farley	Director, Claim Management
Fred Dillon	Director, Accounting Division
Samuel Davis	Director, Occupational Pneumoconiosis

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER
SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES

AREAS OF NONCOMPLIANCE

Accounting Division

1. Deposit of receipts are not being made within twenty-four hours as required by State law.

We recommend the Fund establish procedures to assure all funds received are deposited in compliance with Chapter 12, Article 2, Section 2 of the West Virginia Code.

The Fund is implementing the recommendation. (See pages 18-20.)

2. The Fund appears to be lax in enforcing Chapter 23, Article 2, Section 5 and 5A of the Workmen's Compensation statute concerning delinquencies.

We recommend the Fund comply with Chapter 23, Article 2, Section 5 and 5A of the West Virginia Code and enforce and utilize all remedies available to them in the collection of delinquent premiums.

The Fund is implementing this recommendation. (See pages 20-25.)

Non-Payment of Public Employees' Health Insurance Premiums

3. During our examination of expenditures made by the Workmen's Compensation Fund, we noted the Fund was unable to pay the total insurance premiums due the Public Employees' Health Insurance Board for the months of May and June of 1980 due to insufficient funds in the insurance accounts.

We recommend the Fund take appropriate action to satisfy this obligation.

The Fund is implementing this recommendation. (See pages 25-27.)

Occupational Pneumoconiosis Board

4. Board members are not paid a per diem salary as required by Chapter 23, Article 4, Section 8A of the West Virginia Code.

We recommend the Fund comply with Chapter 23, Article 4, Section 8A of the West Virginia Code.

The Fund has implemented this recommendation. (See pages 27 and 28.)

Surplus Fund

5. Interest income is being used to provide funding for the Surplus Fund.

We recommend the Fund comply with Chapter 23, Article 3, Section 1 of the West Virginia Code and cease the practice of assessing interest earned on investments to fund the Surplus Fund.

The Fund does not agree with your interpretation of Chapter 23, Article 3, Section 1 of the West Virginia Code in utilizing interest earned on investment to fund the Surplus Fund. (See pages 28 and 29.)

6. Amounts being set aside in the Surplus Fund for regular subscribers and self-insurers are in excess of percentage set by statute.

We recommend the Fund comply with Chapter 23, Article 3, Section 1 and Article 2, Section 9 of the West Virginia Code in funding the Surplus Fund.

The Fund does not agree with your interpretation of Chapter 23, Article 3, Section 1 and Article 2, Section 9 of the West Virginia Code concerning funding of the Surplus Fund. (See pages 29-31.)

Appeal Board

7. The Appeal Board did not submit an annual budget to the Workmen's Compensation Commissioner.

We recommend the Appeal Board comply with Chapter 23, Article 5, Section 2 of the West Virginia Code and submit an annual budget to the Workmen's Compensation Commissioner to be included as a separate item in the Fund's budget.

The Fund is implementing this recommendation. (See page 31.)

Workmen's Compensation Advisory Board

8. The Advisory Board did not submit an annual report to the Commissioner and Legislature for fiscal years 1981 and 1982.

We recommend the Advisory Board comply with Chapter 23, Article 1, Section 18 of the West Virginia Code and submit an annual report to the Commissioner and the Legislature.

The Advisory Board has just been recently reenacted after having been previously "sunseted". As of yet not all of the new members have been appointed. (See pages 31 and 32.)

Self-Insured Employers

9. Self-insured employers are not providing information to the Fund showing

current reserves for all open claims.

We recommend the Fund enforce Section 4, Rule 4.02E of the Fund's Rules and Regulations and require self-insured employers to provide the Fund information showing current reserves for all open claims.

The Fund is going to undergo a fairly extensive review and revision of our rules. (See pages 32 and 33.)

10. Self-insured employers are not being assessed a proportion of the claims expense for those employers who are delinquent in the payment of premiums.

We recommend the Fund comply with Chapter 23, Article 2, Section 9 of the West Virginia Code and assess self-insured employers an amount for the expense of claims paid for those employers who are delinquent in the payment of their premiums.

The Fund has implemented this recommendation. (See pages 33 and 34.)

Fee Schedule

11. We noted the Fund does not use a schedule of maximum reasonable amounts to be paid to medical vendors treating injured employees as required by Chapter 23, Article 4, Section 3 of the West Virginia Code.

We recommend the Fund comply with Chapter 23, Article 4, Section 3 of the West Virginia Code and establish a schedule of maximum reasonable amounts to be paid to medical vendors.

The Fund will implement this recommendation. (See pages 34 and 35.)

Witness Fees

12. Our review of fees paid to witnesses subpoenaed to appear at appeal hearings indicated the party who requested the subpoena did not always pay the fees and mileage of the witness as required by Chapter 23, Article 1, Section 10 of the West Virginia Code.

We recommend the Fund comply with Chapter 23, Article 1, Section 10 of the West Virginia Code by paying the witness fee of only those persons subpoenaed at the instance of the Commissioner and pay those witnesses the fees and mileage provided for witnesses in civil cases in the circuit court.

The Fund believes it has to pay the witness fees due to recent Supreme Court decisions. (See pages 35 and 36.)

Equipment

13. We were unable to trace several items purchased in fiscal year 1980 and 1981 to the Department of Finance and Administration's master inventory list or to the Fund's inventory control list. Also, the last physical inventory conducted by the Fund was in November, 1979.

We recommend the Fund conduct an annual physical inventory and update the inventory to reflect any transfers of equipment.

The Fund has recently completed an update of our inventory. (See pages 36 and 37.)

INTERNAL CONTROL AND ACCOUNTING SYSTEM

Inadequate Bad Check Control

14. The Accounting Division is not maintaining a bad check register for recording bad checks when they were made good. Also, the Division is slow in notifying employers of the bad checks.

We recommend the Fund establish a bad check register for recording bad checks upon receipt and the date the checks were made good. Also, institute procedures to more effectively notify employers of bad checks.

The Fund is maintaining a master log of checks in order to comply with this recommendations. (See pages 38 and 39.)

Telephone Usage

15. Our study and evaluation of internal controls revealed there are no controls over long distance telephone calls to prevent abuse.

We recommend the Fund institute procedures to prevent the abuse of telephone usage by establishing a telephone log which includes date call was made, number called, reason call was made and person making call.

The Fund has implemented new procedures in order to strengthen internal controls over our telephone usage. (See page 39.)

Returned Benefit Checks

16. Our review of benefit checks returned to the Fund indicated an internal control weakness. The effect of this weakness is to allow the possible unnoticed theft of checks.

Under current procedures established in June of 1982, all benefit checks

returned to the Fund are recorded upon receipt by mailroom personnel. The checks are then delivered to various divisions where they are signed for and redeposited.

The Fund has implemented new procedures to cure the problems in this area. (See page 40.)

Overpayment of Claims

17. We noted the Fund has made a substantial number of overpayments to claimants. A computer report generated by the Fund listing overpaid claimants as of October 6, 1982 indicates 9,269 claimants were overpaid. The total amount overpaid was \$5,152,656.92 of which \$584,806.14 has been repaid leaving an outstanding balance of \$4,567,850.78. These overpayments relate to claims from fiscal year 1975 to October 6, 1982.

We recommend the Fund establish a system to minimize overpayments.

The Fund is implementing this recommendation. (See pages 41-49.)

18. According to police investigative reports, a mail clerk employed by the Fund stole 48 Workmen's Compensation benefit checks totaling \$28,646.99.

We recommend the Fund do the following:

1. Establish procedures to strengthen internal control in the mailroom over the receipt and delivery of mail.
2. Submit a report of losses to Kanawha County Circuit Court, Adult Probation Department to receive restitution.
3. Submit a claim to the State Board of Risk and Insurance Management to recover its' losses.

The Fund has implemented these recommendations. (See pages 49-51.)

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

GENERAL REMARKS

INTRODUCTION

A financial and compliance audit of the Office of the Workmen's Compensation Commissioner has been completed. The audit covered the period July 1, 1974 through June 30, 1981. A financial and compliance audit determines whether the financial statements of an audited entity presents fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements.

SPECIAL REVENUE ACCOUNTS

During our audit period, the Workmen's Compensation Fund operated from the following special revenue accounts:

<u>Account Number</u>	<u>Account Description</u>
*9000-00	Personal Services
*9000-01	Current Expenses
*9000-02	Repairs and Alterations
*9000-03	Equipment
*9000-04	Social Security Matching
9000-05	Purchase of Investments
9000-08	Awards
9000-13	Employers' Refunds
*9000-16	Public Employees' Retirement Matching
9000-17	Sundry A catch-all account that eliminates duplicate charges being shown on employers' charge statements.
*9000-20	Public Employees' Health Insurance
9000-25	Disabled Workers' Relief Fund To transfer funding to this program.

<u>Account Number</u>	<u>General Operation</u>
9000-99	Cash Control Receipt of premiums from employers to cover cost of administering workmen's compensation benefits.

* Appropriated by the Legislature.

Account Number

Disbursement Accounts

9010-06
9010-08

Administrative Expenses
Awards

Disabled Workers' Relief Fund

9010-99

Cash Control
For receipt of interest earned on investments of Workmen's Compensation Fund; for administering expenses and awarding relief to disabled workers.

Coal Workers' Pneumoconiosis Fund

9025-05

For receipt of premiums and other employer refunds; to disburse for administrative expenses and to persons entitled to benefits in accordance with federal laws.

AREAS OF NONCOMPLIANCE

Chapter 23 of the West Virginia Code generally governs the Workmen's Compensation Fund. We tested applicable sections of the above plus general State regulations and other applicable chapters, articles and sections of the West Virginia Code as they pertain to fiscal matters. Our findings are listed below.

Deposit of Receipts Are Not Being Made Within
Twenty-Four Hours as Required by State Law

Effective July 1, 1981, significant changes were made in Chapter 12, Article 2, Section 2 of the West Virginia Code which requires the depositing of monies to the State Treasury within twenty-four hours after receipt. Our review of the Accounting Division's receipt and deposit procedures for compliance were extended through May 31, 1982. This was done to review the Division's current procedures since any recommendations concerning compliance during the audit period ended June 30, 1981 would not have been applicable to the current procedures.

Our review of the Accounting Division's receipt and deposit procedures indicates the Division is having serious problems in depositing funds received within twenty-four hours as required by Chapter 12, Article 2, Section 2 of the West Virginia Code which states in part:

"All officials and employees of the state authorized by statute to accept moneys due the State of West Virginia ... shall deposit within twenty-four hours with the state treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever...."

We tested receipts received by the Fund during the months of March, April and May of 1982. Workmen's compensation premiums are due thirty days following the end of a quarter, therefore, our test encompassed slack and peak periods of the Fund's receipt of premiums. Our test revealed the following:

	<u>Compliance</u>		<u>Noncompliance</u>		<u>Total</u>	
<u>March 1982</u>						
Number of Items	379	15.83%	2,015	84.17%	2,394	100%
Amount	\$ 401,668	22.12%	\$ 1,413,816	77.88%	\$ 1,815,484	100%
<u>April 1982</u>						
Number of Items	1,872	13.73%	11,758	86.27%	13,630	100%
Amount	1,001,228	8.03%	11,459,965	91.97%	12,461,193	100%
<u>May 1982</u>						
Number of Items	1,029	5.95%	16,271	94.05%	17,300	100%
Amount	<u>2,251,204</u>	7.95%	<u>26,057,313</u>	92.05%	<u>28,308,517</u>	100%
<u>Totals:</u>						
Number of Items	3,280	9.84%	30,044	90.16%	33,324	100%
Amount	<u>\$ 3,654,100</u>	8.58%	<u>\$38,931,094</u>	91.42%	<u>\$42,585,194</u>	100%

By not depositing these funds as required, potential interest income is lost and the possibility of theft or misplacement of the funds is increased. Substantial interest was lost by the Fund during the test period. We obtained from the State Board of Investments the interest rate for the months of March, April and May. We calculated the interest lost to be as follows:

<u>Month</u>	<u>Interest Lost</u>
March 1982	\$ 2,266.82
April 1982	15,017.30
May 1982	<u>64,842.21</u>
Total Interest Lost	<u>\$82,126.33</u>

In our opinion, it appears the delay is caused by the large volume of reports and checks received within a few days after the last day reports are due. Normally, three clerks are used to process the reports and checks through the system, however, other clerks in the Division assist during the rush period. Also, a delay is caused by the checks and reports being sent to the cashier for deposit without tapes attached. The present procedure is for the cashier to balance the checks to the reports by preparing tapes on each before preparing a deposit. We believe the reports and checks should be separated after the receiving clerks verify the amount of the checks to the reports and a tape prepared for deposit before sending them to the cashier. The cashier should then verify the checks to the tape and process the deposits. This would eliminate the cashier having to run two tapes on the reports and checks to balance before making deposits. Also, if for any reason, a report has to be held up, a copy of the check should be made and attached to the report. The check should then be processed immediately.

We recommend the Fund establish procedures to assure all funds received are deposited in compliance with Chapter 12, Article 2, Section 2 of the West Virginia Code, as amended.

The Fund is now evaluating several alternatives to insure that in the future transaction of business, all funds received are deposited in compliance with Chapter 12, Article 2, Section 2 of the Code of West Virginia, as amended.

Delinquencies

The Fund appears to have been lax in enforcing Chapter 23, Article 2, Sections 5 and 5A of the Workmen's Compensation statute.

Sec. 23-2-5. Payment of premiums; payroll report; effect of failure to pay premiums or make payroll report; reinstatement; application for benefits; deposit to insure payment of premiums; refund of deposit notice to employees. — For the purpose of creating a workmen's compensation fund each employer subject to this chapter shall pay the premiums of liabilities based upon and being such a percentage of the payroll of such employer as may have been determined by the commissioner and be then in effect. The premiums shall be paid quarterly on or before the last day of the next succeeding month for the preceding quarter, and shall be the prescribed percentage of the total earnings of all employees within the meaning of this chapter, for such preceding quarter.

The minimum premium to be paid by any employer for any quarter shall be one dollar and fifty cents. The premiums and deposits provided for in this chapter shall be paid by the employers to the state compensation commissioner, who shall issue receipts for all sums so received to the state treasurer and retain a copy for his own records. All sums received by the workmen's compensation commissioner as herein provided shall be deposited in the state treasury to the credit of the workmen's compensation fund in the manner now prescribed by law for depositing money in the state treasury. Each employer shall make a payroll report to the commissioner for each quarter as heretofore specified, and such report shall be on the form or forms prescribed by the commissioner, and furnish all information required by him.

No employee of an employer required by this chapter to subscribe and pay premiums to the workmen's compensation fund as herein prescribed shall be denied benefits provided by this chapter because of the failure of his employer to subscribe, or pay premiums into, the workmen's compensation fund as herein provided, or because of the employer's failure to make the quarterly payroll reports required by the commissioner: Provided, That any employer required by this chapter to subscribe and pay premiums to the workmen's compensation fund as herein provided and who fails to do so shall be liable to the workmen's compensation fund for all benefits paid from the fund to his employees, as well as for all premiums otherwise due and owing to said fund as herein provided: Provided, however, That any employer required by this chapter to subscribe and pay premiums to the workmen's compensation fund, or to make the quarterly payroll reports required by the commissioner, as herein provided, and who fails to comply with such requirements, shall be deprived of the benefits and protection afforded by this chapter, including section six of this article, and shall be liable as provided in section eight of this article, as well as for all benefits paid to said employee as provided by this chapter.

An employer required by this chapter to subscribe and pay premiums to the workmen's compensation fund, and to make the quarterly payroll reports required by the commissioner as herein provided, and who defaults or fails to comply with any of said requirements shall be restored to the benefits and protection of this chapter only upon the payment into the workmen's compensation fund of all unpaid premiums, penalties, and charges, provided herein, and the making of all delinquent quarterly payroll and other reports required by the commissioner.

Failure by any employer not required by this chapter, but voluntarily electing to subscribe and pay premiums to the workmen's compensation fund as herein provided, to pay premiums as herein provided, or to make the quarterly payroll reports required by this chapter, shall deprive the employer so delinquent of the benefits and protection afforded by this chapter, including section six of this article, and shall automatically terminate the election of such employer to pay into the workmen's compensation fund as herein provided, and such employer shall be liable for the injury or death of any employee occurring after the termination of such election as provided in section eight of this article. The commissioner shall not be required to notify the delinquent employer of such termination, but he shall notify the employees of such employer by written notice posted as hereinafter provided for in this section. The termination of election of such delinquent employer shall date from twelve o'clock p.m., of the last day of the month in which he fails to pay the premiums or make a payroll report, as above provided, for the preceding quarter.

The employer so delinquent may be reinstated upon application under such terms as are prescribed by this chapter and by the commissioner hereunder, after the payment into the workmen's compensation fund of all unpaid premiums, penalties and charges. Such reinstatement shall be in effect from and after

the date that the new application is accepted by the commissioner: Provided, That such delinquent employer shall be entitled to the benefits and protection of this chapter until twelve o'clock p.m., of the last day of the month immediately succeeding the month in which his election is terminated, and his employees shall be entitled to compensation for injuries received during such period.

Any employer required by this chapter to subscribe and pay premiums to the workmen's compensation fund, or hereafter electing to avail himself of the benefits of this chapter as herein provided, shall at the time of making application to the commissioner deposit in the workmen's compensation fund an amount estimated to be equal to the amount of the premium which shall be paid by him for the next succeeding quarter. Any employer whose deposit is less than the amount of his premium for the last quarter shall, upon written request from the commissioner mailed to his address as carried upon the books of the commissioner by twelve o'clock p.m., of the last day of the month in which request is mailed, pay to the commissioner a sum sufficient to make his deposit at least equal to the amount of his premium for the last preceding quarter, and failure of any employer to comply with such written request within the time specified shall constitute a default in performance of the requirements of this chapter and shall deprive him of the benefits and protection afforded by this chapter, and shall automatically terminate any voluntary election to pay into the workmen's compensation fund as herein provided, and such employer shall be liable to his employees as provided in section eight of this article; and the commissioner shall not be required to notify the delinquent employer of such termination or default, but he shall notify the employees of such employer by written notice posted as hereafter provided for in this section. The termination of election of such employer shall date from twelve o'clock p.m., of the last day of the month in which he is notified by the commissioner that his deposit is not equal to the sum of his premium for the last preceding quarter. Such employer may be reinstated upon application under such terms as are prescribed by this chapter and the rules of the commissioner. The deposit hereinbefore described shall be credited to the employer's account on the books of the commissioner and used to pay premiums and any other sums due the fund when such employer becomes delinquent in the payment of same.

Upon withdrawal from the fund or termination of election of any employer, he shall be refunded the balance due him of his deposit, after deducting all amounts owed by him to the workmen's compensation fund, and the commissioner shall notify the employees of such employer of said termination in such manner as he may deem best and sufficient.

Notice to employees in this section provided for shall be given by posting written notice that the employer is delinquent under the compensation law of West Virginia, and in the case of employers required by this chapter to subscribe and pay premiums to the fund, that the delinquent employer is liable to his employees for injury or death, both in workmen's compensation benefits and in damages at common law or by statute; and, in the case of employers not required by this chapter to subscribe and pay premiums to the fund, but voluntarily electing to do so as herein provided, that neither the employer nor the employees of such employer are protected by said law as to any injury or death sustained after the date specified in said notice. Such notice shall be in the form prescribed by the commissioner and shall be posted in a conspicuous place at the chief works of the employer, as the same appear in records of the commissioner. If the said chief works of the employer cannot be found or identified, then said notices shall be posted at the front door of the courthouse of the county in which said chief works are located, according to the records in the commissioner's office. Any person who shall, prior to the reinstatement of the said employer, as hereinbefore provided for, or prior to sixty days after the posting of said notice, whichever shall first occur, remove, deface or render illegible the said notice, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be

fined not to exceed five hundred dollars, and the said notice shall state this provision upon its face. The commissioner may require any sheriff, deputy sheriff, constable, or other official of the State of West Virginia, who may be authorized to serve civil process, to post such notice and to make return thereof of the fact of such posting to the commissioner, and any failure of such officer to post any notice within ten days after he shall have received the same from the commissioner, without just cause or excuse, shall constitute a willful failure or refusal to perform a duty required of him by law within the meaning of section twenty-eight, article five, chapter sixty-one of this code. Any person actually injured by reason of such failure shall have an action against said official, and upon any official bond he may have given, for such damages as such person may actually have incurred, but not to exceed, in the case of any surety upon said bond, the amount of the penalty of said bond. Any official posting said notice as herein required shall be entitled to the same fee as is now or may hereafter be provided for the service of process in suits instituted in courts of record in the State of West Virginia, which fee shall be paid by the commissioner out of any funds at his disposal, but shall be charged by him against the account of the employer to whose delinquency such notice relates. (1913, c. 10, Sec. 24; 1916, c. 9, Sec. 24; 1919, c. 131, Sec. 24; Code 1923, c. 15P, Sec. 24; 1939, c. 137; 1947, c. 164; 1949, c. 136; 1970, c. 80; 1974, c. 145.)

Sec. 23-2-5a. Collection of premiums from defaulting employers; civil remedies; injunctive relief; secretary of state to withhold certificates of dissolution. — The commissioner in the name of the State may commence a civil action against an employer who, after due notice, defaults in any payment required by this chapter. If judgment is against the employer he shall pay the costs of the action. Civil actions under this section shall be given preference on the calendar of the court over all other civil actions.

Any payment and interest thereon due and unpaid under this chapter shall be a personal obligation of the employer and shall, in addition thereto, be a lien enforceable against all the property of the employer: Provided, That no such lien shall be enforceable as against a purchaser (including a lien creditor) of real estate or personal property for a valuable consideration without notice, unless docketed as provided in chapter ninety-nine, acts of the legislature, regular session, one thousand nine hundred forty-three.

In addition to all other civil remedies prescribed herein the commissioner may in the name of the state distrain upon any personal property, including intangible property, of any employer delinquent for any payment and interest thereon. If the commissioner has good reason to believe that such property or a substantial portion thereof is about to be removed from the county in which it is situated, he may likewise distrain in the name of the state before such delinquency occurs. For such purpose, the commissioner may require the services of a sheriff of any county in the State in levying such distress in the county in which the sheriff is an officer and in which such personal property is situated. A sheriff so collecting any payments and interest thereon shall be entitled to such compensation as is provided by law for his services in the levy and enforcement of executions.

In case a business subject to the payments and interests thereon imposed under this chapter shall be operated in connection with a receivership or insolvency proceeding in any state court in this state, the court under whose direction such business is operated shall, by the entry of a proper order or decree in the cause, make provisions, so far as the assets in administration will permit, for the regular payment of such payments as the same become due.

The secretary of state of this State shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this State, or organized under the laws of any other state and admitted to do business in this State, until notified by the commissioner that all payments and interest thereon against any such corporation which is an employer under this chapter have been paid or that provision satisfactory to the commissioner has been made for payment.

In any case when an employer defaults in payments, or interest thereon, for as many as two calendar quarters, which quarters need not be consecutive, and remains delinquent after due notice, and the commissioner has been unable to collect such payments by any of the other civil remedies prescribed herein, the commissioner may bring action in the circuit court of Kanawha County to enjoin such employer from continuing to carry on the business in which such liability was incurred: Provided, That the commissioner may as an alternative to this action require such delinquent employer to file a bond in the form prescribed by the commissioner with satisfactory surety in an amount not less than fifty percent more than the payments and interest due. (1974, c. 145.)

We noted the Accounting Division was not sending delinquent notices to all delinquent employers who had failed to file a quarterly report with the Fund as required. We were told by employees of the Accounting Division that delinquent notices had not been sent to all delinquent employers since 1977. The Accounting Director told us effective June 1, 1982 delinquent notices would be sent to all employers who were delinquent at the close of the March 31, 1982 quarter.

According to records made available to us, the Fund has approximately 10,790 employers who were delinquent in failing to submit a quarterly report to the Fund from one to six quarters as of December 31, 1981. As of May 1982, we were provided with a list of 34 employers owing the Fund \$4,458,932.78 in premiums which the Fund had filed liens against. We were also provided with another list of 212 employers owing the Fund \$1,851,544.76 of which the Fund was in the process of filing liens. Although the Fund is making every effort to collect delinquencies, it appears it will be many months before the Fund can audit the delinquent accounts to determine how much is owed the Fund. It is impossible for the Fund to determine the dollar amount of delinquency until all missing reports are

received from the employer.

We recommend the Fund comply with Chapter 23, Article 2, Sections 5 and 5A of the West Virginia Code and enforce and utilize all remedies available to them in the collection of delinquent premiums.

In your remarks regarding the audit of the Fund, you state that the Fund has been "lax in enforcing Chapter 23, Article 2, Section 5 and 5A of the Workmen's Compensation statute." However, you also point out that the Fund is now making every effort to collect delinquencies....."

Notwithstanding the fact that the Fund may have been lax in this area in the past, substantial efforts are now being made to enforce and utilize all remedies available for the collection of delinquent premiums. We are currently in the process of preparing settlement agreements for those employers who elected to settle their delinquent accounts pursuant to the settlement legislation passed during the first special session of the Legislature convened in Spring of 1983.

Non-payment of Public Employees' Health Insurance Premiums

During our examination of expenditures made by the Workmen's Compensation Fund, we noted the Fund was unable to pay the total insurance premiums due the Public Employees' Insurance Board for the months of May and June of 1980 due to insufficient funds in the insurance account. Premiums due for the month of May \$17,587.14 and June \$17,506.42 totaled \$35,093.56. Of this amount, the Fund paid \$4,473.58 leaving a balance due the Public Employees' Insurance Board of \$30,619.98 for fiscal year 1980. As of the date of this report, this amount has not been paid.

Through an analysis of the Fund's payments to the Insurance Board, it appears the Fund's inability to pay these premiums resulted from an increase in premium rates charged by the Insurance Board for 10 months of fiscal year 1980.

The Fund receives an annual appropriation specifically for the payment of insurance premiums. The appropriation for fiscal year 1980 was \$169,675.00 or approximately \$14,140.00 per month. Premiums due for the months of July and August averaged \$14,400.00 per month and for September through June increased to an average of the \$17,500.00 per month, thus, resulting in insufficient funds in the insurance account.

The amount due could have been paid had the Fund requested the Governor's approval to expend from collections more than the amount appropriated by the Legislature for insurance premiums. Spending units operating from their own collections are allowed to expend more than authorized by following guidelines set forth in Chapter 5A, Article 2, Section 20 of the West Virginia Code which states:

If the amount actually collected by a spending unit exceeds the amount which it is authorized to expend from collections, the excess in collections shall be set aside in a special surplus fund for the spending unit. Expenditures from this fund shall be made only in accordance with the following procedure:

The spending officer shall submit to the commissioner:

- (1) A plan of expenditure showing the purposes for which the surplus is to be expended, and**
- (2) A justification statement showing the reasons why the expenditure is necessary and desirable.**

The commissioner shall submit the request to the governor with his recommendation.

If the governor approves the plan of expenditure and justification statement, and is satisfied that the expenditure is required to defray the additional cost of the service or activity of the spending unit, and that the expenditure is in accordance with sound fiscal policy, he may authorize the use of the surplus during the current fiscal year. Notices of such authorization shall be sent to the state auditor, the state treasurer and the legislative auditor.

An expenditure from a special surplus fund without the authorization of the governor, or other than in accordance with this section, shall be an unlawful use of public funds. (1939, c. 39, § 32; 1961, c. 132; 1969, c. 13.)

The authority of the governor to increase the appropriation of a spending unit does not come into play until such time as the amount of funds actually collected by the spending unit

exceeds the amount officially authorized by the legislature for expenditure. Op. Atty Gen., Feb. 16, 1978.

The Fund requested and received authorization from the Governor to increase the equipment appropriation for fiscal year 1980. The appropriation was increased \$21,850.00, i.e., from \$83,200.00 to \$105,050.00. In fiscal year 1981, the Fund was again unable to meet expenditures for the Public Employees' Insurance premiums and Social Security Matching contributions, however, the Fund requested and received authorization from the Governor to increase appropriations on these two items. The appropriation for the Public Employees' Insurance Board was increased \$16,000.00, i.e., from \$224,583.00 to \$240,583.00 and the Social Security Matching appropriation was increased \$13,000.00, i.e., from \$229,500.00 to \$242,500.00.

We recommend the Fund take appropriate action to satisfy this obligation.

The appropriate action necessary to satisfy this obligation is being taken.

The Occupational Pneumoconiosis Board Members Are Not Paid
a Per Diem Salary as Required by the State Code

The Occupational Pneumoconiosis Board members are not being paid a per diem salary as required by Chapter 23, Article 4, Section 8A of the West Virginia Code which states:

"... The commissioner, from time-to-time, shall fix the per diem salary, computed on the basis of actual time devoted to the discharge of their duties, to be paid each member of such board, and they shall also be entitled to reasonable and necessary traveling and other expenses incurred while actually engaged in the performance of their duties"

Currently, members are paid \$60.00 per examination and \$25.00 per hearing. Normally the Board sees 40 claimants on a docket day, thus, possibly earning \$2,400.00 per day. Three members of the Board constitutes a quorum and must be present for the transaction of business, therefore, the State pays at least \$7,500.00 per day every day the Board meets. There are approximately 60 docket

days each year.

We recommend the Fund comply with Chapter 23, Article 4, Section 8A of the West Virginia Code.

A new method for computing the salaries of the Occupational Pneumoconiosis Board Members has now been established and implemented. This method encompasses a per diem rate computed on the basis of actual time spent by the Board Members in discharging their duties, as required by statute. Additionally, the "actual time" basis is being monitored and reviewed to insure that the per diem rate is an accurate reflection of actual time spent.

Interest Income Is Being Used to Provide Funding
For the Surplus Fund

Currently, the Workmen's Compensation Fund assesses amounts paid by regular subscribers and self-insurers and interest earned on investments as a means of funding the Surplus Fund. Funding for the Surplus Fund is provided for in Chapter 23, Article 3, Section 1 of the West Virginia Code, as amended, which states in part:

"... Ten percent of all that shall hereafter be paid into the workmen's compensation fund by subscribers ... shall be set aside for the creation of a surplus fund until such surplus fund shall amount to the sum of five hundred thousand dollars, after which time the sum of five percent of all money paid into such fund shall be credited to such surplus fund...."

We interpret this to mean only monies paid into the Fund by subscribers shall be set aside for the Surplus Fund and not the interest earned on investments.

We recommend the Fund comply with Chapter 23, Article 3, Section 1 of the West Virginia Code and cease the practice of assessing interest earned on investments to fund the Surplus Fund.

The basis for your remarks in this regard are based on a narrow interpretation of Chapter 23, Article 3, Section 1 of the West Virginia Code, as amended.

Our interpretation of this statute differs, in that since the statute does not speak to the issue of interest, we feel that it is only fair that interest earned should be credited to the source. We feel that this interpretation is not only fair and just, but would be upheld by our Supreme Court if challenged.

Amounts Being Set Aside in the Surplus Fund For Regular Subscribers and Assessed Against the Self-Insurers Are in Excess of Percentage Set by Statute

As previously stated, funding for the Surplus Fund is provided by setting aside 10% of everything paid into the Workmen's Compensation Fund by subscribers until the Surplus Fund amounted to \$500,000.00, at which time the percentage was reduced to 5%. Self-insurers who elect to pay into the Surplus Fund are to pay upon the same basis and in the same percentage as premium-paying subscribers as stated in Chapter 23, Article 2, Section 9 of the West Virginia Code, as amended. Our review of the funds set aside for the Surplus Fund indicates the Workmen's Compensation Fund is setting aside much more than the 5% set by statute. For example, for fiscal year ending June 30, 1981 the Fund set aside for the Surplus Fund 8.1% or \$11,337,440.64 of the \$139,722,325.06 collected in premiums from regular subscribers. If the Fund had complied with the 5% set by statute, the amount set aside would have been \$6,986,116.25, therefore, the regular subscribers had an excess of \$4,351,324.39 set aside. A detailed analysis of regular subscribers for fiscal years 1976 through 1981 appears on page 74 of the Supplemental Information section of this report.

Self-insured companies are being overassessed for the Surplus Fund. Prior to July 1, 1982, self-insured companies were being assessed 2% for the catastrophe account and 6% for the second injury account for a total assessment of 8%. Currently, the assessment is 1% for the catastrophe account and 6% for the second injury account for a total assessment of 7%. We were unable to calculate the dollar amount of overassessment of self-insured companies since we were unable to determine the actual premium due on which to make the assessment.

Also, the percentage used to make the assessment is different depending on the coverage elected by a self-insured employer. However, the Fund estimated that under the worst interpretation of the law it could be determined that the overcharges were \$28,000,000.00 between 1975 and the present.

We recommend the Fund comply with Chapter 23, Article 3, Section 1, and Article 2, Section 9 of the West Virginia Code in funding the Surplus Fund.

As in the previous remark above regarding the application of the interest earned by the Surplus Fund, our practice regarding the reserving and assessment of premiums for this Fund, although differing from your interpretation of the statute, I believe is proper under the law and justified by reason, equity and common sense. Let me briefly explain our position:

The Surplus Fund was first created by statute in 1915 and in 1923 the current percentages and surplus (i.e. set aside 10% until surplus of \$500,000 then reduce to 5%) were statutorily prescribed. At this time, however, the Surplus Fund was to cover catastrophe hazard and all losses not otherwise specified and it did not cover second injury life awards as it does today. I am of the opinion that my responsibility to maintain a solvent Fund in this case overrides statutory percentages and a total dollar surplus amount which is terribly outdated. Further, it is very unlikely that from an actuarial standpoint the Surplus Fund does not have a \$500,000 surplus and therefore our charge to self-insurers would be less than prescribed by statute. The percentages that are currently being charges are simply what it costs to maintain the Surplus Fund. Were we to administer this Fund in a manner consistent with your interpretation of the statute, the charges

for the Surplus Fund would constantly fluctuate back and forth between 5% and 10% every year. At the present time, I am hesitant to change the method of administering this Fund until an actuarial study which is now underway to determine whether a surplus even exists, is completed.

The Appeal Board Did Not Submit an Annual Budget to the Workmen's Compensation Commissioner

Chapter 23, Article 5, Section 2 of the West Virginia Code states in part:

"... The board shall submit its annual budget to the state compensation commissioner for inclusion as a separate item in the budget estimates prepared by him annually...."

In our examination of the Workmen's Compensation Fund's budget, we noted the budget for the Appeal Board was not included as a separate item. We also learned through discussion with Appeal Board personnel that the Board does not submit an annual budget to the Workman's Compensation Commissioner.

Expenses for the Board are included in the Workmen's Compensation Legal Division budget. Salaries and other operating expenses of the Board are paid from the operating accounts of the Fund and are not distinguishable from the Fund expenses, therefore, we were unable to determine total operating cost of the Appeal Board.

We recommend the Appeal Board comply with Chapter 23, Article 5, Section 2, of the West Virginia Code and submit an annual budget to the Workmen's Compensation Commissioner to be included as a separate item in the Fund's budget.

In regards this remark, your recommendations have already been or are in the process of being complied with.

The Advisory Board Did Not Submit an Annual Report to the Commissioner and Legislature for Fiscal Years 1981 and 1982

In reviewing the activities of the Workmen's Compensation Advisory

Board, we noted the Board has submitted only one annual report dated February 14, 1980 to the Commissioner and Legislature during the period July 1, 1979 through June 30, 1982. The Board must submit an annual report as required by Chapter 23, Article 1, Section 18 of the West Virginia Code which states in part:

"... By the second Wednesday of January of each year the board shall prepare and deliver to the workmen's compensation commissioner and to the legislature a report of all the matters it considered, recommendations it made and plans it formulated during the preceding calendar year...."

We recommend the Advisory Board comply with Chapter 23, Article 1, Section 18 of the West Virginia Code and submit an annual report to the Commissioner and Legislature.

The Advisory Board has just been recently reenacted after having been previously "sunseted". As of yet not all of the new members have been appointed.

Self-Insured Employers Are Not Providing Information to the Workmen's Compensation Fund Showing Current Reserves for All Open Claims

Section 4, Rule 4.02E of the Workmen's Compensation Fund's Rules and Regulations states:

"Once the privilege of self-insuring has been granted said privilege will continue contingent upon the self-insurer providing on a year-to-year basis information showing current reserves for all open claims."

We could find no evidence of this information being provided to the Workmen's Compensation Fund. The Fund establishes reserves for all open claims of self-insured employers, however, they have not required the self-insured employer to provide the Fund with information showing the reserves set aside to cover their claims.

We recommend the Fund enforce Section 4, Rule 4.02E of the Workmen's Compensation Fund's Rules and Regulations and require the self-insured employers to provide the Fund information showing current reserves for all open claims.

With regard to our Rules and Regulations, because of some very recent Supreme Court decisions, in particular Meadows, et als v. Lewis, Commissioner and UMWA, etc. v. Lewis, Commissioner, we must undergo a fairly extensive review and revision of our rules.

Self-Insured Employers Are Not Being Assessed a Proportion of the Claims Expense for Those Employers Who Are Delinquent in the Payment of Premiums

The amount self-insured employers must pay into the Workmen's Compensation Fund is covered under Chapter 23, Article 2, Section 9 of the West Virginia Code, as amended, which states in part:

"... Any employer electing under this section shall on or before the twentieth day of the first month of each quarter, for the preceding quarter, file with the commissioner a sworn statement of the total earnings of all his employees subject to this chapter for such preceding quarter, and shall pay into the workmen's compensation fund a sum sufficient to pay his proper proportion of the expenses of the administration of this chapter, and a sum sufficient to pay his proper portion of the expenses for claims for those employers who are delinquent in the payment of premiums, and a sum sufficient to pay his fair portion of the expenses of the disabled workmen's relief fund, as may be determined by the commissioner...."

Currently, the Fund assesses self-insured employers an amount for the administration of the Fund and an amount for the Disabled Workmen's Relief Fund. Self-insured employers are not being assessed an amount for the claims paid for employers who are delinquent in the payment of premiums. In discussing this with Fund personnel, we learned the Fund interprets this section of the Code to mean claims paid on self-insured employers who are delinquent in the payment of premiums. Since there were no self-insured employers who were delinquent in the payment of their premiums, self-insured employers were not being assessed an amount for this expense. We interpret this section of the Code to mean claims paid for all subscribers who are delinquent in the payment of premiums.

We recommend the Fund comply with Chapter 23, Article 2, Section 9 of the West Virginia Code and assess self-insured employers an amount for the

expense of the claims paid for those employers who are delinquent in the payment of their premiums.

The claims expense for delinquent employers has always been built into our rating system. However, beginning July 1, 1983, this was established as a separate expense item to self-insured employers.

Fee Schedule

We noted the Workmen's Compensation Fund does not use a schedule of maximum reasonable amounts to be paid to medical vendors treating injured employees. Chapter 23, Article 4, Section 3 of the West Virginia Code states in part:

"The commissioner shall establish, and alter from time to time as he may determine to be appropriate a schedule of the maximum reasonable amounts to be paid to physicians, surgeons, hospitals or other persons, firms or corporations for the rendering of treatment to injured employees under this chapter ... the person, firm or corporation rendering such treatment is hereby prohibited from making any charge or charges therefor or with respect thereto against the injured employee or other persons, firm or corporation which would result in a total charge for treatment rendered in excess of the maximum amount set forth therefor in the commissioner's schedule established as aforesaid...."

The Fund used a maximum fee schedule prior to 1976. However, since that time one has not been used due to medical vendors resistance to set fees. Currently, medical vendors are reimbursed the usual and customary rates for their services. The effect of the lack of a maximum fee schedule is to create a wide range of allowable medical costs for similar services. This creates a situation where improper billing practices could occur. To alleviate this weakness the Fund has included in their fiscal 1983-84 appropriation request an improvement level package which would provide \$360,000.00 to acquire a computerized medical bill review system. This system would implement a medical fee schedule in addition to monitoring medical bills for excessive treatment and duplicate billings.

We recommend the Fund comply with Chapter 23, Article 4, Section 3 of the West Virginia Code and establish a schedule of maximum reasonable amounts to be paid to medical vendors.

We are currently in the process of a complete redesign of our computer system. An integral part of that redesign is the development and implementation of a fee schedule. We are hopeful that the fee schedule will be one of the first system components to be put in place.

Witness Fees

Our review of fees paid to witnesses subpoenaed to appear at appeal hearings indicated the party who requested the subpoena did not always pay the fees and mileage of the witness. Also, the fees paid to some witnesses were in excess of that received by witnesses in civil cases in the circuit court. Chapter 23, Article 1, Section 10 of the West Virginia Code states:

"Each officer who serves such subpoenas shall receive the same fee as a sheriff, and each witness who appears in obedience to a subpoena before the commissioner or an inspector, or an examiner, shall receive for his attendance the fees and mileage provided for witness in civil cases in the circuit court, which shall be audited and paid out of the workmen's compensation fund in the same manner as other expenses are audited and paid, if such witness was subpoenaed without the request of either claimant or employer at the instance of the commissioner or an inspector or an examiner. The witness fee and mileage of any witness subpoenaed by, or at the instance of, either claimant or employer shall be paid by the party who subpoenaed such witness."

We reviewed 10 cases where subpoenaed witnesses were paid fees and mileage for appearing at a hearing. Each of the witnesses were subpoenaed to testify on behalf of the claimant. Seven physicians were subpoenaed upon the instance of the Commissioner and the other three were upon the instance of the claimant's attorney. The Fund paid the appearance fee in each of these cases. We were informed that it is the Fund's policy to pay the appearance fee of all treating physicians and physicians that claimants had been referred to by the Fund. When other witnesses are subpoenaed the party that requests the subpoena pays the witness fees.

We noted that a lay witness, which is considered to be a non-expert by the Fund, is paid between \$10.00 and \$20.00 for a hearing appearance and is reimbursed \$.15 per mile for travel expense. These are the fees set by the circuit court to be paid witnesses in civil cases. The Fund considers physicians to be expert witnesses and pays each such witness the usual and customary amount. The amount paid to each physician in the 10 cases we reviewed ranged from \$50.00 to \$200.00.

The effect of paying the witness fees of all treating physicians and referral physicians and the payment of fees up to \$200.00 is to potentially deplete the Fund of resources needed to pay benefits.

We recommend the Fund comply with Chapter 23, Article 1, Section 10 of the West Virginia Code by paying the witness fees of only those persons subpoenaed at the instance of the Commissioner and pay those witnesses the fees and mileage provided for witnesses in civil cases in the circuit court.

Your recommendation in this regard fails to take into account at least two factors which must always be considered. First, subpoenas are often requested for the purpose of cross-examining a witness who has previously provided testimony or a written report on behalf of the other party. It is, therefore, important to determine whose witness is being subpoenaed in addition to who requests the subpoena. Second, frequent decisions by our Supreme Court often change the way this statute is applied. Even at the present time, we are reviewing the Court's decision in UMWA, etc. v. Lewis, Commissioner, as it relates to witness fees.

Equipment

Our test of equipment indicated that several items purchased during fiscal year 1980 were not in Department of Finance and Administration's master inventory list. We were also unable to trace equipment items purchased in fiscal

years 1980 and 1981 to the Fund's inventory control list. The last physical inventory conducted by the Fund was November, 1979.

A system of internal controls would include a check of inventory against records. The Fund should maintain an adequate method of inventory to eliminate the opportunity for concealment. This is of special importance since the Fund has incurred the theft of typewriters on two occasions after moving to their Lewis Street location.

The Department of Finance and Administration requires all agencies to conduct an annual inventory. The Department's Handbook of Purchasing Procedures on page 59 under "Equipment Lost, Stolen and/or Damaged" states, "An annual inventory must be taken by all agencies. When the agency receives its computer read-out of equipment they should check it against what they have...."

We recommend the Fund conduct an annual physical inventory and update the inventory to reflect any transfers of equipment.

In compliance with this recommendation, we have recently completed an update of our inventory.

INTERNAL CONTROL AND ACCOUNTING SYSTEM

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

The objectives of internal accounting control are to provide reasonable, but not absolute, assurance as to the safeguarding of assets against loss from unauthorized use or disposition, and the reliability of financial records for preparing financial statements and maintaining accountability for assets. The

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

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

Our study and evaluation of the system of internal control for the period July 1, 1979 - June 30, 1981, which was made for the purpose set forth in the first paragraph above, would not necessarily disclose all weaknesses in the system. However, such study and evaluation disclosed conditions that we believe to be weaknesses.

Inadequate Bad Check Control

The Accounting Division is not maintaining a bad check register for recording bad checks when they are made good. The possibility that the checks might be lost or stolen is increased by not recording them. According to the State Treasury records, \$339,621.52 in bad checks was charged back to the Workmen's Compensation Fund during fiscal year 1980-81. Our review of bad checks on

hand as of May 15, 1982 indicated the Fund had \$146,010.03 in bad checks. The Accounting Division is attempting to collect these checks, however, letters that were attached to the checks indicated the Division is slow in notifying the employers of bad checks. Some employers had as many as three bad checks on file.

We recommend the Fund establish a bad check register for recording bad checks upon receipt and the date the checks are made good. Also, institute procedures to more efficiently notify employers of bad checks.

We are now maintaining a master log of checks in order to comply with this recommendation.

Telephone Usage

Our study and evaluation of internal controls revealed there is no control over long distance telephone calls to prevent abuse. Good controls would comprise a plan to ensure all calls are for business purposes and not for personal reasons.

Under current procedures of the Fund, phone bills are received in the Business Office where they are divided by division and referred to the division directors to be approved for payment. The directors are supposed to account for all long distance calls, however, we were informed that in most cases the directors sign the bills asserting that all long distance telephone calls were made for business purposes. The Fund also receives a monthly computer printout of all calls made on the Dain system, however, this also is not being reviewed. The Fund has 103 phone numbers and 176 extentions. With this many telephone numbers and no control to prevent abuse, the possibility of abuse could be great.

We recommend the Fund institute procedures to prevent the possible abuse of telephone usage by establishing a telephone log which includes date call was made, number called, reason call was made and person making call.

New procedures have been implemented in order to strengthen internal controls over our telephone usage.

Returned Benefit Checks

Our review of benefit checks returned to the Fund indicated an internal control weakness. Checks are returned to the Fund for various reasons including death of claimant and insufficient address. When checks are received they are delivered to the Inquiry Section. If the reason for the return is death of a claimant, the check is redeposited and the claimant's file is updated. If the check is returned due to insufficient address, it is filed alphabetically in an unlocked box on a clerk's desk and retained there while a search is made for a current address. No record is made in the Inquiry Section of checks returned. If a correct address is obtained, the check is remailed to the claimant and a record is made documenting the return and remailing of the check. If all efforts fail to produce a correct address, the checks are retained in a metal box for a period of up to four months at which time they are redeposited. At the time of our review on March 11, 1982, there were 103 checks on hand totaling \$24,784.48.

The effect of this internal control weakness is to allow the possible unnoticed theft of checks due to the fact that the checks are not recorded when returned to the Fund and are kept in a non-safe container.

As a result of this weakness, the clerk who had control over the returned checks was suspended in June 1982 for gross misconduct. The clerk allegedly was involved in the negotiation of a claimant's check that was returned to the Fund. This was brought to the attention of the Fund after the claimant inquired about his check.

Under current procedures established in June of 1982, all benefit checks returned to the Fund are recorded upon receipt by mailroom personnel. The checks are then delivered to various divisions where they are signed for and re-deposited.

New procedures have been implemented to cure the problems in this area.

Overpayment of Claims

We noted the Workmen's Compensation Fund has made a substantial number of overpayments to claimants. A computer report generated by the Fund listing overpaid claimants as of October 6, 1982 indicates 9,269 claimants were overpaid. The total amount overpaid was \$5,152,656.92 of which \$584,806.14 has been repaid leaving an outstanding balance of \$4,567,850.78. These overpayments relate to claims from fiscal year 1975 through October 6, 1982.

Our review of twenty-six overpayments indicated a variety of reasons for the overpayments:

Six temporary total disability awards were ruled overpayments because the claimants returned to work while still receiving benefits;

Five temporary total disability awards were denied because they were protested by the employers causing the claimants to be overpaid;

Five permanent partial disability awards were denied after protest;

The Commissioner lowered a claimant's permanent partial disability awards after he received his benefits;

Claimant's application contained the wrong date the disability began causing him to be overpaid;

After an employer protested a claim, it was determined the claimant's ending date of disability was wrong;

The Fund made an administrative error on the date disability began for a claimant;

Error in the calculation of a permanent partial disability award;

Error in the calculation of a temporary total disability award;

Claimant's temporary total disability award was denied after review by the Commissioner;

The State Treasury issued a duplicate permanent partial disability check by mistake after a claimant denied receiving his check;

One overpayment was later overturned on appeal; and,

One overpayment was charged to a previous claim for an earlier injury.

Of the overpayment claims we reviewed, it appears that three such claims were possibly submitted with intent to defraud. One claim where there appears to be intent to defraud the Fund was submitted on January 15, 1981. The claimant injured his back while lifting. The employer protested the March 2, 1981 ruling of compensability on March 10, 1981 and requested an independent medical evaluation. The claimant received temporary total disability benefits from January 8, 1981 through May 18, 1981 totaling \$4,139.20 and medical vendors were paid \$3,026.20. A hearing was held by the Workmen's Compensation trial examiner on October 5, 1981. The claimant was not present at the hearing and the employer testified the claimant had missed an appointment for an independent examination. The claimant was issued a subpoena to attend the next hearing on April 5, 1982 but did not attend. Instead, the claimant's attorney submitted a note signed by the claimant withdrawing his claim. The Commissioner ordered the claim be dismissed on May 12, 1982 and sent a letter to the claimant on June 9, 1982 stating he was overpaid \$4,139.20. None of this overpayment has been repaid and no legal action has been taken against the claim. Also, medical benefits of \$130.00 were paid for this claimant and have not been repaid.

Another claim where there appears to be intent to defraud the Fund was submitted on April 23, 1979. The claimant injured his arm in a mining accident and was awarded temporary total disability benefits starting April 23, 1979. On June 5, 1980, the employer protested the ruling of May 7, 1980 extending these benefits. A hearing was held on October 30, 1980. The claimant stated he hadn't worked since his injury and the hearing was continued by request of the employer for additional evidence. The next hearing was held on March 6, 1981. At this

hearing, a private investigator hired by the employer testified that he observed and filmed the claimant working for a tow-truck company on May 28 and 29, 1980. The film was shown at the hearing, however, the claimant stated that it wasn't he in the film. The hearing was continued at the employer's request. The claimant's temporary total disability benefits were stopped on September 15, 1981. A hearing was held on October 14, 1981 and the claimant stated he had made incorrect statements at the last hearing by stating he worked at a wrecking service from January 1980 through June 10, 1980 and again in August 1980. The claimant's attorney stated that the claimant was not temporarily totally disabled after January 1980. On April 16, 1982, the Commissioner ruled that all temporary total disability benefits after January 15, 1980 are overpayments. On April 30, 1982 the claimant was notified he was overpaid \$19,319.74. None of this overpayment has been repaid and no legal action has been taken against the claimant. Also, medical benefits of \$3,831.25 were paid for this claimant and have not been repaid.

Another claim where there appears to be intent to defraud the Fund was submitted after an injury on October 13, 1977. The claimant hurt his back while lifting scrap iron and was awarded temporary total disability benefits on December 27, 1977. The employer protested the award on January 5, 1978. A hearing was held on September 6, 1978 where witnesses claimed the claimant intended to fake an injury to obtain Workmen's Compensation benefits. The hearing was continued for more medical evidence. The next hearing was held on June 13, 1979 but was also continued until the claimant's doctor could testify. At the next hearing on December 20, 1979, the claim was submitted to the Commissioner 27, 1979. On August 18, 1980, the Commissioner set aside the December 27, 1980, 1979 decision stating the injury was not due to employment. On September 7, 1980, the claimant appealed the decision to the Appeal Board. On August 29, 1981, the Appeal Board affirmed the Commissioner's order. On October 22, 1981,

the claimant was notified he was overpaid \$27,942.86 for temporary total disability benefits from October 14, 1977 through June 12, 1979 and from October 2, 1979 through August 18, 1980. The claimant has since had \$780.00 withheld from another claim for a new injury leaving an unpaid balance of \$27,162.86. Also, medical benefits of \$108.00 were paid for this claimant and have not been repaid.

We noted two instances where claimants' overpayments were increased due to delays in the appeal process. One claimant fractured his shoulder on May 21, 1978. The employer protested the claim on July 19, 1978. The claimant was awarded temporary total disability benefits on August 23, 1978. A hearing was held on November 6, 1979 and by joint motion by both counsels was continued to the next available docket. On March 25, 1980, a hearing was held and four witnesses agreed that the claimant's injury occurred during a seizure. The claim was then submitted to the Commissioner for a ruling. On September 23, 1980, the Commissioner set aside the initial ruling and determined that all benefits paid were to be classified as overpayments because the injury was not job related. The claimant was notified on October 9, 1980 that he was overpaid \$10,660.57 in temporary total disability benefits from May 22, 1978 through April 23, 1979. The claimant appealed the Commissioner's decision on October 30, 1981 to the Appeal Board. The Appeal Board affirmed the Commissioner's decision. No repayment has been made. Also, medical benefits of \$936.00 were paid for this claimant and have not been repaid.

Another claimant injured his back and neck on October 25, 1977. The claim was ruled compensable on March 17, 1978 and he was awarded temporary total disability benefits. The employer protested the claim on April 7, 1978. A hearing was held on July 11, 1978 and was continued to the next available docket in order to gather further medical evidence. At the second hearing on October 16, 1978, the claimant was not present and his attorney requested the case be

continued. At the third hearing on February 27, 1979, the employer made a motion to continue the claim. At the fourth hearing on June 19, 1979, it was agreed that the claim be submitted to the Commissioner for her decision. The Commissioner affirmed the previous award on January 2, 1980. The employer appealed this ruling to the Appeal Board on March 26, 1980. On August 12, 1980, the claim was closed on a temporary total disability basis and the claimant was granted a 5% permanent partial disability award. On January 29, 1981, the Appeal Board reversed and set aside the Commissioner's order and denied the claim on the grounds that the claimant's injury occurred while on vacation and not on the job. The claimant was notified on March 25, 1981 that he was overpaid \$25,256.34 in benefits for the period October 26, 1977 through February 28, 1980. On April 8, 1981, the claimant's 5% permanent partial disability award of \$3,207.77 was ruled an overpayment. No repayment has been made by the claimant. Also, medical benefits of \$3,726.88 were made for this claimant and have not been repaid.

The five cases listed above where claimants were overpaid was initially ruled on correctly by the Fund. However, when the employer protested the awards and further evidence was introduced concerning the injuries, the delays in the Fund's appeal process caused the overpayments to increase significantly. In the first case, the employer protested the claim 15 months before the claim was dismissed during which time the claimant was paid \$2,128.32. In the second case, the employer protested the claim 22 months before the claim was dismissed during which time the claimant was paid \$14,376.60. In the third case, the employer protested the claim 32 months before the claim was dismissed during which time the claimant was paid \$25,254.86. In the fourth case, the employer protested 25 months before the claim was dismissed during which time the claimant was paid \$7,934.00. In the fifth case, the employer protested 32 months before the case was dismissed by the Appeal Board during which time the claimant was paid \$20,545.42.

While the fund is required by statute to continue to pay claimants while claims are in the appeal process and it takes each of the parties involved time to prepare their cases, it appears the number of hearing continuances granted and the backlog of cases has greatly increased the amount of overpayments. The total \$70,239.20 paid to the 5 claimants listed above could probably not be reduced to zero, but it could be greatly reduced by a faster appeal process. The individual employers are not charged for these claims that are later ruled overpayments, however, the Fund must pay the costs and indirectly all employers in the State pay the cost of these overpayments through higher premiums.

We also noted one overpayment that was initially ruled compensable in error by the Fund. According to the claim submitted on August 26, 1981, a mechanic employed by a car dealer was injured while eating lunch at a restaurant on April 30, 1981 when a bottle of ketchup exploded in his hand. The Commissioner ruled this claim compensable on September 1, 1981. The claimant received \$5,283.23 in temporary total disability benefits from May 1, 1981 through September 15, 1981. On September 24, 1981, the Commissioner reversed her previous decision and denied the claim stating that the injury was not suffered in the course of employment. The claimant was notified on October 28, 1981 that he was overpaid \$5,283.23 in temporary total disability benefits and the Commissioner requested the claimant to refund these overpayments. On October 13, 1981, the Commissioner received a request from the claimant's physician requesting more surgery for the claimant. This request was denied on November 16, 1981. The records indicate that more surgery was performed on December 1, 1981 and the Fund was billed for all medical expenses. The total medical expenses paid on this claim were \$6,570.70, of which \$2,066.50 was paid for the period April 30, 1981 through May 13, 1981 and \$4,503.90 for the period December 1, 1981 through December 9, 1981. The total overpayment on the claim was \$11,853.93. To date the Fund has collected \$1,510.00 of the \$5,283.23 in temporary total benefits paid the claim-

ant, by withholding portions of temporary total disability benefits on a new claim filed with the Fund for an injury sustained on November 11, 1982. We could find no evidence where the Fund has attempted to collect the overpayments from the hospital or the doctor.

Our review of overpayments included some of the larger overpayments and at least one of each type of overpayment. The 26 overpayments reviewed totaled \$236,253.86 of which \$6,171.00 was repaid or withheld from a claim for a new injury of three of the overpaid claims. Eight of the 26 cases are still in the appeal process.

In addition to overpayments to claimants, the Fund has made overpayments to medical service vendors when a claim was totally rejected. Under the rules and regulations of the Fund, medical bills are paid during the period that a claim is in litigation. If the claim is subsequently rejected, the Fund must recover from the party to whom payment has been made. It is not the responsibility of the party who received treatment or services to repay the Fund. Of the twenty-six overpayment claims we reviewed, six were totally rejected and medical vendors were overpaid. However, in only three cases were the medical vendors notified they were overpaid, and only in one of these cases had some of the medical vendors refunded their fees. The Fund does not have a complete listing of all medical bills that were paid and subsequently determined to be overpaid. It appears that this caused the Medical Exceptions Section to not be aware of all rejected claims in order to try and collect these overpayments.

While our review pointed out the various reasons for overpayments, it also indicated that the total \$4,567,850.78 listed as overpaid is not accurate since it contains amounts that were not actually overpaid. For example; one overpayment was later overturned on appeal and overpayment was charged to a previous claim for an earlier injury. In addition, the total amount overpaid could be altered both upward or downward by many cases now in the appeal process.

We also noted the long delays in the appeal process cause many overpayments to increase in amount since the claimants are paid while appeals are in process.

The Fund notifies claimants by letter that they were overpaid and the amount they owe the Fund. In none of the overpayment claims we reviewed had the claimants been sent a second request to repay the Fund. The Fund has not taken legal action against any claimant who was overpaid. In order to collect the overpayments, the Fund notes these persons as overpaid on the computer system and if they receive benefits from a new claim a part or all of the previous overpayment is deducted from the new claim.

The effect of these overpayments is to create inequities within the Workmen's Compensation system. Some claimants are unjustly enriched at the expense of the employers in the State. This causes all employers' premium rates to increase. Due to a low number of repayments, it appears the reluctant efforts of the Fund to collect the overpayments has led to unwillingness by claimants to repay overpayments and essentially the only way the Fund collects overpayments is when the person has a second injury.

We recommend the Fund establish a system to minimize overpayments.

You raised a number of different issues under this heading. I set them out and comment briefly:

A. Fraudulently Filed Claims:

When such claims are discovered, we contact the appropriate authorities and cooperate fully in the prosecution of those individuals who attempt to defraud the Fund. Recently, an investigation by the federal authorities resulted in a number of individuals being indicted, all but two have pleaded guilty and their sentences now include restitution to the Fund. Additionally, we now contract with an investigating firm in order to deal "in house" with those cases that fall just short of criminal activity.

B. Overpayments Because of Slow Litigation Process:

The Supreme Court's decision in Meadows, et als v. Lewis, Commissioner will have a lot to do with speeding up our litigation process in the future.

C. Overpayments to Medical Vendors:

We are currently in the process of reviewing and restructuring our entire procedure in this area.

D. Use of Set-Off on Second Award as Method of Collecting Overpayment:

This method for collecting overpayments has proved the most cost effective when compared with the alternative methods to us.

Theft of Forty-Eight Workmen's Compensation Benefit Checks Totaling \$28,646.99

According to police investigative reports, a mail clerk employed by the Workmen's Compensation Fund stole 48 Workmen's Compensation benefit checks totaling \$28,646.99 during his term of employment, November 11, 1977 through February 2, 1978. This employee was terminated for absenteeism.

It appears this theft occurred due to a weakness in internal control in the mailroom. The employee's duties as a mail clerk consisted of collecting mail from all offices throughout the Fund; processing it through the central mailroom; delivering it to the post office; picking up mail at the post office; and, delivering it to the various offices in the Fund. This employee worked from 7:30 a.m. to 3:30 p.m. Monday through Friday, working alone from 7:30 a.m. to 8:00 a.m.

According to the police investigative reports and other records made available to us, it appears the Fund was not aware of any checks being stolen until August 4, 1978, when a state policeman called by the bank auditor of the First National Bank of Belle to investigate a Workmen's Compensation check that was deposited in that bank as a possible forgery. The police investigation re-

vealed the 48 checks totaling \$28,646.99 were deposited in bank accounts opened December, 1977 and January, 1978 by the employee in four area banks. The deposits were made during the period January through May 1, 1978. Five of the checks totaling \$8,415.20 were not paid by the banks. As of May, 1982, the State Treasury had received bank credits on 7 of the stolen checks totaling \$3,240.35 leaving a net loss due the Fund of \$16,991.44.

On August 11, 1978, this employee was arrested in the Charleston National Bank and charged with uttering a forged check. He was taken before a magistrate and placed under a \$20,000.00 bond and released. On April 17, 1979, the employee appeared before a judge in the Circuit Court of Kanawha County and pleaded guilty to three counts of uttering, grand larceny and uttering. On August 27, 1979, the employee appeared before the judge to receive sentencing. Sentencing was suspended and the employee was released on probation for a period of five years with specific terms and conditions, one of which was to make restitution on a regular monthly basis to all victims for the loss or damages caused by the crime.

The four banks involved in the crime submitted reports of their losses totaling \$16,215.78 to the Adult Probation Department of the Kanawha County Circuit Court. We could find no evidence of the Fund reporting its losses to the Court. The banks began receiving restitution on April 22, 1980. As of April, 1982, according to information made available by the Court, the employee has made \$775.00 in restitution to the banks with the last payment received by the Court on September 10, 1981. The Fund has not received any further credits from the banks other than the original \$3,240.35. Also, in reviewing correspondence between the Court and the banks, one bank was expected to receive partial restitution for its losses from its insurance company.

Also, we could find no record of the Fund submitting a claim to the State Board of Risk and Insurance Management to recover its losses.

We recommend the Workmen's Compensation Fund do the following:

1. Establish procedures to strengthen internal control in the mailroom over the receipt and delivery of mail;
2. Submit a report of losses to the Kanawha County Circuit Court, Adult Probation Department to receive restitution; and,
3. Submit a claim to the State Board of Risk and Insurance Management to recover its losses.

Pursuant to your recommendations in this regard, we have established procedures to strengthen this control weakness and have compiled the information necessary and will transmit the same to the Kanawha County Circuit Court and the State Board of Risk and Insurance Management.

AUDITORS' OPINION

The Honorable Encil Bailey
Legislative Auditor
State Capitol - West Wing
Charleston, West Virginia

Sir:

We have examined the balance sheet of the Office of the Workmen's Compensation Commissioner as of June 30, 1981 and June 30, 1980, and the related statements of revenues, expenses and changes in fund balance and changes in financial position for the years then ended. Except as explained in the following paragraph, our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

Chapter 23, Article 2, Section 1 of the West Virginia Code requires all state governmental agencies, persons, firms, associations and corporations regularly employing another person or persons for the purpose of carrying on any form of industry, service or business in West Virginia to subscribe to the Workmen's Compensation Fund. The Office of the Workmen's Compensation Commissioner does not have records indicating the total membership of the Fund nor were there records indicating the total amounts due the Fund. The Office's records do not permit the application of adequate alternative procedures regarding the total premiums receivable and the related contra account. As described in Note B, the Office records the premiums received for the preceding quarter as its premiums receivable balance at the balance sheet date. This method is not in accordance with generally accepted accounting principles.

In our opinion, subject to the effects on the financial statements of adjustments, if any, as might have been required had the premiums receivable been auditable, the financial statements referred to above present fairly the financial position of the Office of the Workmen's Compensation Commissioner as of June 30, 1981 and June 30, 1980, and the results of its operations and changes in its financial position for the years then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Our examination was made for the purpose of forming an opinion of the basic financial statements taken as a whole. The supplemental information is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the examination of the basic financial statements.

statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

Respectfully submitted,



Theodford L. Shanklin, CPA, Director
Legislative Postaudit Division

August 3, 1982

Auditors: Nick Arvon, Supervisor-in-Charge
Charles L. Lunsford, Auditor-in-Charge
Matthew R. McGinley, CPA
Edward Magee, CPA
Kelly A. Young

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

BALANCE SHEET

	Year Ended June 30, 1981		
	Workmen's Compensation	Coal-Worker's Pneumoconiosis	Combined Totals
<u>Assets</u>			
Cash	\$ 697,058.02	\$ 114,676.36	\$ 811,734.38
Premium Receivable	31,871,042.84	1,822,739.48	33,693,782.32
Short-Term Investments	39,391,626.72	107,859,288.15	147,250,914.87
Accrued Interest	18,535,058.71	13,475,821.63	32,010,880.34
Total Current Assets	<u>90,494,786.29</u>	<u>123,272,525.62</u>	<u>213,767,311.91</u>
Long-Term Investments	<u>452,191,689.08</u>	<u>7,029,585.34</u>	<u>459,221,274.42</u>
Total Assets	<u>\$542,686,475.37</u>	<u>\$130,302,110.96</u>	<u>\$672,988,586.33</u>
<u>Liabilities and Fund Balance</u>			
Accounts Payable	\$ 588,474.21	\$ -0-	\$ 588,474.21
Employers' Advance Account	45,067,565.73	-0-	45,067,565.73
Total Current Liabilities	<u>45,656,039.94</u>	<u>-0-</u>	<u>45,656,039.94</u>
Fund Balance:			
Reserves;			
Active Claims	358,310,765.00	95,771,000.00	454,081,765.00
Unawarded Claims	46,000,000.00	-0-	46,000,000.00
Second Injury	34,000,000.00	-0-	34,000,000.00
Catastrophe	15,500,000.00	-0-	15,500,000.00
Unlimited Medical	10,000,000.00	9,950,000.00	19,950,000.00
Disabled Worker's Relief	22,000,000.00	-0-	22,000,000.00
Total Reserve	<u>485,810,765.00</u>	<u>105,721,000.00</u>	<u>591,531,765.00</u>
Unallocated Fund Balance	11,219,670.43	24,581,110.96	35,800,781.39
Total Fund Balance	<u>497,030,435.43</u>	<u>130,302,110.96</u>	<u>627,332,546.39</u>
Total Liabilities and Fund Balance	<u>\$542,686,475.37</u>	<u>\$130,302,110.96</u>	<u>\$672,988,586.33</u>

See Notes to Financial Statements

Year Ended June 30, 1980

<u>Workmen's</u> <u>Compensation</u>	<u>Coal-Worker's</u> <u>Pneumoconiosis</u>	<u>Combined</u> <u>Totals</u>
\$ 714,543.62	\$ 69,197.20	\$ 783,740.82
38,433,537.34	4,066,405.08	42,499,942.42
21,600,884.74	85,951,335.52	107,552,220.26
<u>13,095,527.07</u>	<u>8,771,113.56</u>	<u>21,866,640.63</u>
73,844,492.77	98,858,051.36	172,702,544.13
<u>417,173,094.28</u>	<u>7,153,565.55</u>	<u>424,326,659.83</u>
<u>\$491,017,587.05</u>	<u>\$106,011,616.91</u>	<u>\$597,029,203.96</u>

\$ 594,727.07	\$ -0-	\$ 594,727.07
<u>53,766,773.58</u>	<u>-0-</u>	<u>53,766,773.58</u>
54,361,500.65	-0-	54,361,500.65

338,277,299.00	55,233,000.00	393,510,299.00
33,000,000.00	-0-	33,000,000.00
21,500,000.00	-0-	21,500,000.00
10,500,000.00	-0-	10,500,000.00
8,000,000.00	500,000.00	8,500,000.00
<u>20,000,000.00</u>	<u>-0-</u>	<u>20,000,000.00</u>
431,277,299.00	55,733,000.00	487,010,299.00
<u>5,378,787.40</u>	<u>50,278,616.91</u>	<u>55,657,404.31</u>
436,656,086.40	106,011,616.91	542,667,703.31

<u>\$491,017,587.05</u>	<u>\$106,011,616.91</u>	<u>\$597,029,203.96</u>
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OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN FUND BALANCE

	Year Ended June 30, 1981		
	<u>Workmen's Compensation</u>	<u>Coal-Worker's Pneumoconiosis</u>	<u>Combined Totals</u>
Revenues:			
Premium	\$159,404,119.24	\$ 17,529,523.34	\$176,933,642.58
Interest	40,458,120.99	12,921,104.90	53,379,225.89
Miscellaneous	410,625.63	-0-	410,625.63
	<u>200,272,865.86</u>	<u>30,450,628.24</u>	<u>230,723,494.10</u>
Expenses:			
Claims	132,693,523.41	6,044,160.39	138,737,683.80
Personal Services	3,865,119.04	82,083.91	3,947,202.95
Current Expenses	3,292,416.03	33,638.94	3,326,054.97
Repairs and Alterations	4,811.64	-0-	4,811.64
Equipment	36,438.16	250.95	36,689.11
Miscellaneous	6,208.55	-0-	6,208.55
	<u>139,898,516.83</u>	<u>6,160,134.19</u>	<u>146,058,651.02</u>
Revenues Over Expenses	60,374,349.03	24,290,494.05	84,664,843.08
Beginning Fund Balance	<u>436,656,086.40</u>	<u>106,011,616.91</u>	<u>542,667,703.31</u>
Ending Fund Balance	<u>\$497,030,435.43</u>	<u>\$130,302,110.96</u>	<u>\$627,332,546.39</u>

See Notes to Financial Statements

Year Ended June 30, 1980

<u>Workmen's</u> <u>Compensation</u>	<u>Coal-Worker's</u> <u>Pneumoconiosis</u>	<u>Combined</u> <u>Totals</u>
\$151,320,325.17	\$ 11,439,757.84	\$162,760,083.01
38,573,426.52	11,379,345.44	49,952,771.96
12,537.31	-0-	12,537.31
<u>189,906,289.00</u>	<u>22,819,103.28</u>	<u>212,725,392.28</u>
119,319,524.13	3,503,885.60	122,823,409.73
3,482,900.28	60,671.08	3,543,571.36
3,213,819.94	20,723.79	3,234,543.73
-0-	-0-	-0-
87,128.91	650.00	87,778.91
159.49	-0-	159.49
<u>126,103,532.75</u>	<u>3,585,930.47</u>	<u>129,689,463.22</u>
63,802,756.25	19,233,172.81	83,035,929.06
<u>372,853,330.15</u>	<u>86,778,444.10</u>	<u>459,631,774.25</u>
<u>\$436,656,086.40</u>	<u>\$106,011,616.91</u>	<u>\$542,667,703.31</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

STATEMENT OF CHANGES IN FINANCIAL POSITION

	Year Ended June 30, 1981		
	<u>Workmen's Compensation</u>	<u>Coal-Worker's Pneumoconiosis</u>	<u>Combined Totals</u>
Source of Funds:			
Revenues Over Expenses	\$60,374,349.03	\$24,290,494.05	\$84,664,843.08
Sale of Investments - Net	-0-	123,980.21	123,980.21
Total	<u>60,374,349.03</u>	<u>24,414,474.26</u>	<u>84,788,823.29</u>
Use of Funds:			
Purchase of Investments - Net	<u>35,018,594.80</u>	<u>-0-</u>	<u>35,018,594.80</u>
Increase in Working Capital	<u>\$25,355,754.23</u>	<u>\$24,414,474.26</u>	<u>\$49,770,228.49</u>
Components of Working Capital			
Increase (Decrease):			
Cash	\$ (17,485.60)	\$ 45,479.16	\$ 27,993.56
Premiums Receivable	(6,562,494.50)	(2,243,665.60)	(8,806,160.10)
Short-Term Investments	17,790,741.98	21,907,952.63	39,698,694.61
Accrued Interest	5,439,531.64	4,704,708.07	10,144,239.71
Net Increase in Current Assets	<u>16,650,293.52</u>	<u>24,414,474.26</u>	<u>41,064,767.78</u>
Accounts Payable	(6,252.86)	-0-	(6,252.86)
Employers' Deposit Account	<u>(8,699,207.85)</u>	<u>-0-</u>	<u>(8,699,207.85)</u>
Net Increase (Decrease) in Current Liabilities	<u>(8,705,460.71)</u>	<u>-0-</u>	<u>(8,705,460.71)</u>
Increase in Working Capital	<u>\$25,355,754.23</u>	<u>\$24,414,474.26</u>	<u>\$49,770,228.49</u>

See Notes to Financial Statements

Year Ended June 30, 1980

<u>Workmen's</u> <u>Compensation</u>	<u>Coal-Worker's</u> <u>Pneumoconiosis</u>	<u>Combined</u> <u>Totals</u>
\$63,802,756.25	\$19,233,172.81	\$83,035,929.06
-0-	-0-	-0-
<u>63,802,756.25</u>	<u>19,233,172.81</u>	<u>83,035,929.06</u>
<u>60,611,417.06</u>	<u>644,932.40</u>	<u>61,256,349.46</u>
<u>\$ 3,191,339.19</u>	<u>\$18,588,240.41</u>	<u>\$21,779,579.60</u>

\$ (431,093.51)	\$ 20,875.20	\$ (410,218.31)
4,170,370.07	691,413.72	4,861,783.79
1,600,884.74	9,921,403.28	11,522,288.02
8,333,457.60	7,954,548.21	16,288,005.81
<u>13,673,618.90</u>	<u>18,588,240.41</u>	<u>32,261,859.31</u>
95,668.85	-0-	95,668.85
<u>10,386,610.86</u>	<u>-0-</u>	<u>10,386,610.86</u>
<u>10,482,279.71</u>	<u>-0-</u>	<u>10,482,279.71</u>
<u>\$ 3,191,339.19</u>	<u>\$18,588,240.41</u>	<u>\$21,779,579.60</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

NOTES TO FINANCIAL STATEMENTS

Note A - General

The Office of the Workmen's Compensation Commissioner was established by the West Virginia Legislature in 1913, Chapter 23, Articles 1-6, West Virginia Code, as amended, to provide a prompt and equitable system of compensation for injury or illness sustained in the course of and growing out of employment. The Fund is monopolistic in nature and benefits obtainable encompass those received because of industrial accident, occupational pneumoconiosis, and occupational disease. The Fund is administered by the State Workmen's Compensation Commissioner who is appointed by the Governor.

Note B - Accounting Policies

The accounting policies of the Office of the Workmen's Compensation Commissioner conform to generally accepted accounting principles as applicable to governments, except for notes 1 and 2. The following is a summary of the more significant policies.

1. The Office of the Workmen's Compensation Commissioner establishes reserves for active claims by a computerized computation of future liability. However, the other reserves listed on the balance sheet are arbitrarily adjusted yearly for the increase in revenue over expenses not needed in the reserve for active claims.
2. The Office of the Workmen's Compensation Commissioner does not estimate the premiums receivable as of the balance sheet date. The Office waits until the next quarter's premiums are collected and uses those receipts as its premiums receivable as of the balance sheet date. This is not in accordance with generally accepted accounting principles.
3. The Office of the Workmen's Compensation Commissioner funds are accounted for using the accrual basis of accounting. Their revenues are recognized when they are earned and their expenses are recognized when incurred with the exception of unpaid vacation and sick pay which is recognized when taken. There is no material effect upon the financial statements by not recognizing unpaid vacation and sick pay when incurred. In addition, the accrual basis of accounting is not followed for expenditures for office furniture, equipment and leasehold improvements which are charged to operations when purchased; accordingly, depreciation is not included in the statement of revenues, expenses, and changes in fund balance. If such assets had been capitalized and depreciated over their estimated useful lives, there would have been no material effect upon the financial statements.
4. The Office of the Workmen's Compensation Commissioner is a member of the West Virginia State Board of Investments Consolidated Pension Pool. The Fund's share of the Pool is as follows:

	Year Ended June 30,	
	<u>1981</u>	<u>1980</u>
Workmen's Compensation Investments:		
Short-Term	\$ 39,391,626.72	\$ 21,600,884.74
Long-Term	452,191,689.08	417,173,094.28
	<u>\$491,583,315.80</u>	<u>\$438,773,979.02</u>
Coal-Worker's Pneumoconiosis Investments:		
Short-Term	\$107,859,288.15	\$ 85,951,335.52
Long-Term	7,029,585.34	7,153,565.55
	<u>\$114,888,873.49</u>	<u>\$ 93,104,901.07</u>

The investments are stated at cost or amortized cost. The approximate market value of the long-term investments follow:

	Year Ended June 30,	
	<u>1981</u>	<u>1980</u>
Workmen's Compensation	<u>\$349,009,000.00</u>	<u>\$313,090,000.00</u>
Coal-Worker's Pneumoconiosis	<u>\$ 6,244,000.00</u>	<u>\$ 5,296,000.00</u>

5. 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 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 C - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employees' contributions are 4½% of their compensation and employees have vested rights under certain circumstances. Contributions by the Office of the Workmen's Compensation Commissioner are 9½% of the employees' compensation. The Fund's pension expenses were as follows:

	Year Ended June 30,	
	<u>1981</u>	<u>1980</u>
Workmen's Compensation	<u>\$ 346,421.14</u>	<u>\$ 313,208.52</u>
Coal-Worker's Pneumoconiosis	<u>\$ 7,627.26</u>	<u>\$ 5,782.93</u>

Note D - Unfunded Liability

This information is from actuarial reports of the Office of the Workmen's Compensation Commissioner prepared by Fredrick W. Kilbourne, Independent Actuary, and Woodward and Fondiller for the year ended June 30, 1980.

The Office of the Workmen's Compensation Commissioner unfunded liability is either \$271 million or \$279 million, according to these two independent actuary's estimates.

SUPPLEMENTAL INFORMATION

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

STATEMENTS OF APPROPRIATIONS AND EXPNEDITURES

APPROPRIATED ACCOUNTS

	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
<u>Personal Services - Account 9000-00</u>		
Appropriations	\$3,847,916.00	\$3,424,000.00
Expenditures	<u>3,756,499.42</u>	<u>3,372,450.62</u>
	91,416.58	51,549.38
Transmittals Paid July 1-30	<u>3,201.71</u>	<u>1,565.84</u>
Balance	<u>\$ 94,618.29</u>	<u>\$ 53,115.22</u>
<u>Current Expenses Account 9000-01</u>		
Appropriations	\$3,021,300.00	\$3,728,492.00
Expenditures	<u>2,435,675.05</u>	<u>2,475,141.21</u>
	585,624.95	253,350.79
Transmittals Paid July 1-30	<u>201,624.39</u>	<u>167,028.27</u>
Balance	<u>\$ 787,249.34</u>	<u>\$ 420,379.06</u>
<u>Repairs and Alterations - Account 9000-02</u>		
Appropriations	\$ 5,000.00	\$ -0-
Expenditures	<u>4,811.64</u>	<u>-0-</u>
	188.36	-0-
Transmittals Paid July 1-30	<u>-0-</u>	<u>-0-</u>
Balance	<u>\$ 188.36</u>	<u>\$ -0-</u>
<u>Equipment - Account 9000-03</u>		
Appropriations	\$ 89,024.00	\$ 83,200.00
Supplemental Appropriation	<u>-0-</u>	<u>21,850.00</u>
	89,024.00	105,050.00
Expenditures	<u>7,751.78</u>	<u>87,195.17</u>
	81,272.22	17,854.83
Transmittals Paid July 1-30	<u>240.70</u>	<u>28,927.08</u>
Balance	<u>\$ 81,512.92</u>	<u>\$ 46,781.91</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER
 STATEMENTS OF APPROPRIATIONS AND EXPENDITURES
 APPROPRIATED ACCOUNTS

	<u>Year Ended June 30,</u>	
	<u>1982</u>	<u>1981</u>
<u>Social Security Matching - Account 9000-04</u>		
Appropriations	\$229,500.00	\$222,560.00
Supplemental Appropriations	13,000.00	-0-
	<u>242,500.00</u>	<u>222,560.00</u>
Expenditures	<u>239,962.93</u>	<u>204,665.90</u>
	2,537.07	17,894.10
Transmittals Paid July 1-30	<u>20,209.83</u>	<u>51,966.24</u>
Balance	<u>\$ 22,746.90</u>	<u>\$ 69,860.34</u>
<u>Public Employees Retirement Matching - Account 9000-16</u>		
Appropriation	\$355,674.00	\$325,280.00
Expenditures	<u>346,421.14</u>	<u>313,208.52</u>
	9,252.86	12,071.48
Transmittals Paid July 1-30	<u>26,237.07</u>	<u>25,892.82</u>
Balance	<u>\$ 35,489.93</u>	<u>\$ 37,964.30</u>
<u>Public Employees Health Insurance - Account 9000-20</u>		
Appropriation	\$224,583.00	\$169,675.00
Supplemental Appropriation	16,000.00	-0-
	<u>240,583.00</u>	<u>169,675.00</u>
Expenditures	<u>238,641.94</u>	<u>169,057.32</u>
	1,941.06	617.68
Transmittals Paid July 1-30	<u>19,646.16</u>	<u>(327.34)</u>
Balance	<u>\$ 21,587.22</u>	<u>\$ 290.34</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
<u>Investments - Account 9000-05</u>		
Cash Receipts	\$ 52,652,620.19	\$ 46,692,851.73
Disbursements	<u>52,652,620.19</u>	<u>46,692,851.73</u>
Balance	\$ <u>-0-</u>	\$ <u>-0-</u>
<u>Investment Costs - Account 9000-06</u>		
Cash Receipts	\$ -0-	\$ 209.66
Disbursements	<u>-0-</u>	<u>209.66</u>
Balance	\$ <u>-0-</u>	\$ <u>-0-</u>
<u>Awards - Account 9000-08</u>		
Cash Receipts	\$113,218,548.37	\$102,069,812.30
Disbursements	<u>113,218,548.37</u>	<u>102,069,812.30</u>
Balance	\$ <u>-0-</u>	\$ <u>-0-</u>
<u>Employers Account - Account 9000-13</u>		
Cash Receipts	\$ 2,853,325.65	\$ 2,166,064.05
Disbursements	<u>2,853,325.65</u>	<u>2,166,064.05</u>
Balance	\$ <u>-0-</u>	\$ <u>-0-</u>
<u>Sundry - Account 9000-17</u>		
Cash Receipts	\$ 6,208.55	\$ -0-
Disbursements	<u>6,208.55</u>	<u>(50.17)</u>
Balance	\$ <u>-0-</u>	\$ <u>(50.17)</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

<u>Transfer to Workmen's Disabled Worker's Relief Fund - Account 9000-25</u>	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
Cash Receipts	\$19,400,000.00	\$18,000,000.00
Disbursements	<u>19,400,000.00</u>	<u>18,000,000.00</u>
Balance	<u>\$ -0-</u>	<u>\$ -0-</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

CASH CONTROL - ACCOUNT 9000-99

	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
Beginning Balance:		
State Treasury	\$ 106,773.66	\$ 1,121,098.92
Change Fund	250.00	250.00
	<u>107,023.66</u>	<u>1,121,348.92</u>
Cash Receipts:		
Employer Receipts	159,964,015.05	138,531,220.89
Interest on Investments	35,018,589.25	35,879,582.51
Interest on Lump-Sum Settlements	7,937.63	9,849.31
Miscellaneous Income	402,688.00	2,688.00
	<u>195,393,229.93</u>	<u>174,423,340.71</u>

TOTAL CASH TO ACCOUNT FOR	<u><u>\$195,500,253.59</u></u>	<u><u>\$175,544,689.63</u></u>
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	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
Ending Balance:		
State Treasury	\$ 335,643.88	\$ 106,773.66
Change Fund	250.00	250.00
	<u>335,893.88</u>	<u>107,023.66</u>
Disbursements:		
Personal Services	3,756,499.42	3,372,450.62
Current Expenses	2,435,675.05	2,475,141.21
Repairs and Alterations	4,811.64	-0-
Equipment	7,751.78	87,195.17
Social Security Matching Fund	239,962.93	204,665.90
Purchase of Investments - Net	52,652,620.19	46,692,851.73
Investment Costs	-0-	209.66
Benefits and Awards	113,218,548.37	102,070,351.19
Employer Refunds	2,853,325.65	2,166,094.05
Public Employees' Retirement Matching	346,421.14	313,208.52
Sundry Account	6,208.55	(50.17)
Public Employees' Health Insurance	238,641.94	169,057.32
Disabled Worker's Relief	19,400,000.00	18,000,000.00
	<u>195,160,466.66</u>	<u>175,551,175.20</u>
Add Transmittals Paid July 1-30 Beginning and (Less Transmittals Paid July 1-30 Ending):		
Personal Services	1,565.84	2,926.12
(Personal Services)	(3,201.71)	(1,565.84)
Current Expenses	167,028.27	69,015.88
(Current Expenses)	(201,624.39)	(167,028.27)
Repairs and Alterations	-0-	-0-
(Repairs and Alterations)	-0-	-0-
Equipment	28,927.08	4,474.82
(Equipment)	(240.70)	(28,927.08)
Social Security Matching	51,966.24	50,483.36
(Social Security Matching)	(20,209.83)	(51,966.24)
Public Employees' Retirement Fund	25,892.82	32,559.24
(Public Employees' Retirement Fund)	(26,237.07)	(25,892.82)
Public Employees' Health Insurance	(327.34)	2,084.26
(Public Employees' Health Insurance)	(19,646.16)	327.34
	<u>3,893.05</u>	<u>(113,509.23)</u>
TOTAL CASH ACCOUNTED FOR	<u>\$195,500,253.59</u>	<u>\$175,544,689.63</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS

<u>Disabled Workers Relief Fund Administrative</u> <u>Expenses - Account 9010-06</u>	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
Cash Receipts	\$ 171,380.78	\$ 167,595.31
Disbursements:		
Personal Services	110,255.49	109,089.38
Civil Service Fees	837.28	913.44
Pension and Retirement Plan	10,591.44	10,604.28
Workmen's Compensation	190.89	119.76
Public Employees' Insurance	9,783.68	8,821.60
Social Security Matching Fund	8,234.00	6,670.85
Machine Rental Expense	22,704.00	25,800.00
Maintenance Contracts	8,784.00	3,040.00
Equipment	-0-	2,536.00
	<u>171,380.78</u>	<u>167,595.31</u>
Balance	<u>\$ -0-</u>	<u>\$ -0-</u>
<u>Disabled Workers Relief Fund Awards -</u> <u>Account 9010-08</u>		
Cash Receipts	\$19,474,975.04	\$17,249,172.94
Disbursements	<u>19,474,975.04</u>	<u>17,249,172.94</u>
Balance	<u>\$ -0-</u>	<u>\$ -0-</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER
 STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS
 DISABLED WORKER'S RELIEF FUND
 CASH CONTROL - ACCOUNT 9010-99

	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
Beginning Balance:		
State Treasury	\$ 607,519.96	\$ 24,288.21
Cash Receipts:		
Transferred from Cash Control - Account 9000-99	<u>19,400,000.00</u>	<u>18,000,000.00</u>
TOTAL CASH TO ACCOUNT FOR	<u>\$20,007,519.96</u>	<u>\$18,024,288.21</u>

	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
Ending Balance:		
State Treasury	\$ 361,164.14	\$ 607,519.96
Disbursements:		
Personal Services	110,255.49	109,089.38
Civil Service Fees	837.28	913.44
Pension and Retirement Plan	10,591.44	10,604.28
Workmen's Compensation	190.89	119.76
Public Employees' Insurance	9,783.68	8,821.60
Social Security Matching Fund	8,234.00	6,670.85
Machine Rental Expense	22,704.00	25,800.00
Maintenance Contracts	8,784.00	3,040.00
Equipment	-0-	2,536.00
Payment of Claims	<u>19,474,975.04</u>	<u>17,249,172.94</u>
	<u>19,646,355.82</u>	<u>17,416,768.25</u>
 TOTAL CASH ACCOUNTED FOR	 <u>\$20,007,519.96</u>	 <u>\$18,024,288.21</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS AND CHANGES IN CASH BALANCE

SPECIAL REVENUE

<u>Coal Worker's Pneumoconiosis Fund - Account 9025-05</u>	<u>Year Ended June 30,</u>	
	<u>1981</u>	<u>1980</u>
Cash Receipts:		
Employers' Premium	\$27,478,150.83	\$10,756,542.22
Interest on Investments	8,736,355.96	3,424,797.23
	<u>36,214,506.79</u>	<u>14,181,339.45</u>
Disbursements:		
Personal Services	82,083.91	60,671.08
Civil Service Fees	435.15	370.50
Pension and Retirement Plan	7,627.26	5,782.93
Public Employees' Insurance	5,174.10	3,021.58
Social Security Matching Fund	5,739.42	3,561.37
Office Expense	3,674.74	1,085.90
Telephone and Telegraph	2,192.78	1,458.83
Furnishings	233.00	650.00
Books Expense	17.95	-0-
Travel Expense	876.42	1,538.64
Postage Expense	-0-	1,079.12
ISSD Expense	1,958.24	1,251.47
Machine Rental	4,500.40	225.45
Maintenance Contracts	326.43	70.00
Building Rental	1,134.00	1,278.00
Refunds to Employers	7,704,961.89	8,198.10
Investments	22,303,931.55	10,566,335.68
Payment of Claims	6,044,160.39	3,503,885.60
	<u>36,169,027.63</u>	<u>14,160,464.25</u>
Cash Receipts Over Disbursements	45,479.16	20,875.20
Beginning Balance:		
State Treasury	<u>69,197.20</u>	<u>48,322.00</u>
Ending Balance:		
State Treasury	<u>\$ 114,676.36</u>	<u>\$ 69,197.20</u>

OFFICE OF THE WORKMEN'S COMPENSATION COMMISSIONER

SURPLUS FUND

ANALYSIS OF AMOUNTS SET ASIDE

FOR REGULAR SUBSCRIBERS

	Year Ending June 30,						
	1975	1976	1977	1978	1979	1980	1981
Premiums Collected	\$ 74,495,061.05 x.05	\$ 83,983,122.34 x.05	\$ 92,456,569.45 x.05	\$ 94,319,211.77 x.05	\$ 107,898,987.07 x.05	\$ 112,207,116.98 x.05	\$ 139,722,325.06 x.05
Amount to be Set Aside for Sur- plus Fund (5%) (WV Code 23-3-1)	3,724,753.05	4,199,156.12	4,622,828.47	4,715,960.59	5,394,949.35	5,610,355.85	6,986,116.25
Amount Set Aside by Workmen's Compensation:							
Catastrophe Account	1,687,992.88	1,666,619.48	1,901,256.20	1,933,319.22	2,243,638.04	2,356,156.56	2,834,360.16
Second Injury Account	5,163,994.66	4,999,838.42	5,703,768.58	5,799,957.65	6,730,914.12	7,068,469.69	8,503,080.48
	<u>6,851,987.54</u>	<u>6,666,477.90</u>	<u>7,605,024.78</u>	<u>7,733,276.87</u>	<u>8,974,552.16</u>	<u>9,424,626.25</u>	<u>11,337,440.64</u>
Percentage	9.2%	8.0%	8.2%	8.2%	8.3%	8.4%	8.1%
Amounts Over Required 5%	\$ <u>3,127,234.49</u>	\$ <u>2,467,321.78</u>	\$ <u>2,982,196.31</u>	\$ <u>3,017,316.28</u>	\$ <u>3,579,602.81</u>	\$ <u>3,814,270.40</u>	\$ <u>4,351,324.39</u>

OFFICE OF WEST VIRGINIA

OFFICE OF LEGISLATIVE AUDITOR, TO WIT:

I, Encil Bailey, Legislative Auditor, 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 20th day of December, 1983.


Encil Bailey, Legislative Auditor

Copy forwarded to the Commissioner of the Department of Finance and Administration to be filed as a public record. Copies forwarded to the Office of the Workmen's Compensation Commissioner; Governor; Attorney General; and, State Auditor.