

JOINT COMMITTEE ON GOVERNMENT AND FINANCE
WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

POST AUDIT DIVISION

LEGISLATIVE AUDIT REPORT

Department of Agriculture Audit of State-Owned Farms

Legislative Auditor: Aaron Allred
Post Audit Director: Denny Rhodes



JOINT COMMITTEE ON
GOVERNMENT & FINANCE

Note: On Monday, February 6, 2017, the Legislative Manager/ Legislative Auditor's wife, Ashley Summitt, began employment as the Governor's Deputy Chief Counsel. Most or all of the actions discussed and work performed in this report occurred after this date. However, the Governor's Deputy Chief Counsel was not involved in the subject matter of this report, nor did any communications regarding the audit, with the audit team, take place. Therefore, the Post Audit Division does not believe there are any threats to independence with regard to this report.

OFFICE OF THE
LEGISLATIVE AUDITOR
Legislative Manager & Legislative Auditor, Aaron Allred



GENERALLY ACCEPTED GOVERNMENT
AUDITING STANDARDS STATEMENT

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

POST AUDIT DIVISION
Director, Denny Rhodes

POST AUDIT DIVISION

POST AUDITS SUBCOMMITTEE MEMBERS

SENATE MEMBERS
President, Mitch Carmichael
Ed Gaunch
Roman Prezioso

HOUSE MEMBERS
Tim Armstead, Speaker
Timothy Miley
Eric E. Nelson Jr.

SEPTEMBER 17, 2017
LEGISLATIVE AUDIT REPORT

Department of Agriculture- *Audit of State-Owned Farms*

POST AUDIT STAFF CONTRIBUTORS

Denny Rhodes Director
Justin Robinson Audit Manager
Tim Abraham Senior Auditor

TABLE OF CONTENTS

Executive Audit Summary	p.1
Background.....	p.6
Audit Question 1	p.10
Audit Question 2	p.13
Audit Question 3	p.18
Audit Question 4	p.23
Audit Question 5	p.26
Audit Conclusion	p.28
Appendices	p.32
Appendix A: Objectives, Scope, and Methodology.....	p.33
Appendix B: Previous Reports by the Legislative- Auditor	p.34
Appendix C: Additional Data Tables.....	p.35
Appendix D: Letter from DMAPS Cabinet Secretary- Jeff Sandy.....	p.38
Appendix E: Second Letter from DMAPS Cabinet- Secretary Jeff Sandy.....	p.41
Appendix F: West Virginia Department of Agriculture- Response	p.42

Executive Audit Summary

The Post Audit Division, at the request of the newly elected Commissioner of Agriculture, began reviewing the operations of the West Virginia Department of Agriculture (the “WVDA”). As the Post Audit Division began to determine objectives for this review, the audit team was informed of concerns from the Division of Corrections (the “DOC”) about the cost of meat being purchased from WVDA and the quality of meat being supplied by WVDA farms not meeting industry standards. This led the Post Audit Division to review the WVDA’s state-owned farm operations that supply food commodities to state institutions under DOC and the Department of Health and Human Resources (the “DHHR”). Based on the Post Audit Division’s review of these operations, the Legislative Auditor identified several issues related to state-owned farms—including net farm operating losses over the past three fiscal years totaling \$2.6 million—that merit the attention of the Post Audits Subcommittee.

Audit Objective

The objective of the Post Audit Division’s review of current WVDA farm operations was to determine if the management of institutional farms is meeting the legislative intent of W.Va. Code §19-12A-5 by producing food products for state institutions in the most efficient manner. The Legislative Auditor previously reported on the decline and inefficiencies of these farm operations in 1994 and 2002. The issues identified and concerns expressed in those reports regarding the sustainability of continuing state-owned farm operations provided a basis for this review and analysis.

Conclusions

Based on the Post Audit Division’s review, it is evident that persistent systemic challenges continue to constrain WVDA farm operations. Despite a significant amount of time passing since the Legislative Auditor last reported on the issues facing state-owned farms in 2002, WVDA farms still are facing the same issues. As detailed in this report, prior recommendations of the Legislative Auditor’s 2002 report that expressed concerns regarding the sustainability and inefficiency of these farm operations were not followed. Further, it does not appear that WVDA is reporting on its farm operations as required by W.Va. Code. As a result, these farm operations are currently operating at a net loss of approximately \$878,000 per year since Fiscal Year 2015.

While performing this review of current WVDA farm operations, the Post Audit Division raised the following audit questions:

- 1. Did WVDA implement corrective actions to address the inefficiencies and significant decline of state-owned farm operations identified by the Legislative Auditor first in 1994 and again in 2002?**

Answer: No. The inefficiencies and significant decline of state-owned farms caused by persistent systemic challenges are still evident today and do not appear to have been addressed by WVDA since first identified by the Legislative Auditor in 1994 and again in 2002.

2. Are WVDA farms financially self-sustainable?

Answer: No. Based on the Post Audit analysis of farm revenues and expenditures, WVDA farms are not financially self-sustainable. WVDA farms incurred an average annual net operating loss of \$878,000 from Fiscal Years 2015 through 2017, for a total net operating loss of \$2.6 million over the most recent three years.

3. Are current WVDA farm operations in accordance with the requirements set forth in W.Va. Code §19-12A-5(b) and, further, are these operations “most efficiently produc[ing] food products for state institutions”?

Answer: No. All pork currently supplied by WVDA to state institutions, and a majority of hamburger beef supplied to DOC, is not sourced from livestock raised on these farms. Rather, it is sourced and processed from hogs and cattle purchased by WVDA from livestock markets and delivered to processors with an additional delivery mark-up to cover WVDA’s cost incurred as the intermediary.

4. To what extent do WVDA farming operations provide rehabilitative labor opportunities for DOC inmates?

Answer: Extremely limited opportunities exist for correctional inmates to work on WVDA farms, as only 14 out of 6,980 (0.2%) inmates worked farms in 2015.

5. Is WVDA complying with W.Va. Code §19-12A-6 by preparing and presenting an annual report to the Legislature specific to state-owned farm operations at the end of each fiscal year?

Answer: No. WVDA has not and does not prepare an annual report specific to its farm operations and present it to the Legislature as required by law.

Based on this information, the Legislative Auditor concludes that the management of institutional farms is **not** meeting the legislative intent of W.Va. Code §19-12A-5 by producing food products for state institutions in the most efficient manner. Rather, these operations appear to be producing food products for state institutions at an average loss of \$878,000 annually since 2015.

Recommendations

- 1. The Legislative Auditor recommends that the Legislature consider modifying W.Va. Code §19-12A-5 to no longer require the Department of Agriculture to **produce food commodities for state institutions**, as well as modifying the requirement that those institutions purchase food commodities produced by the Department of Agriculture, which would allow the Department of Agriculture to eliminate the net operating losses that have amounted to approximately \$2.6 million from Fiscal Year 2015 through 2017.*

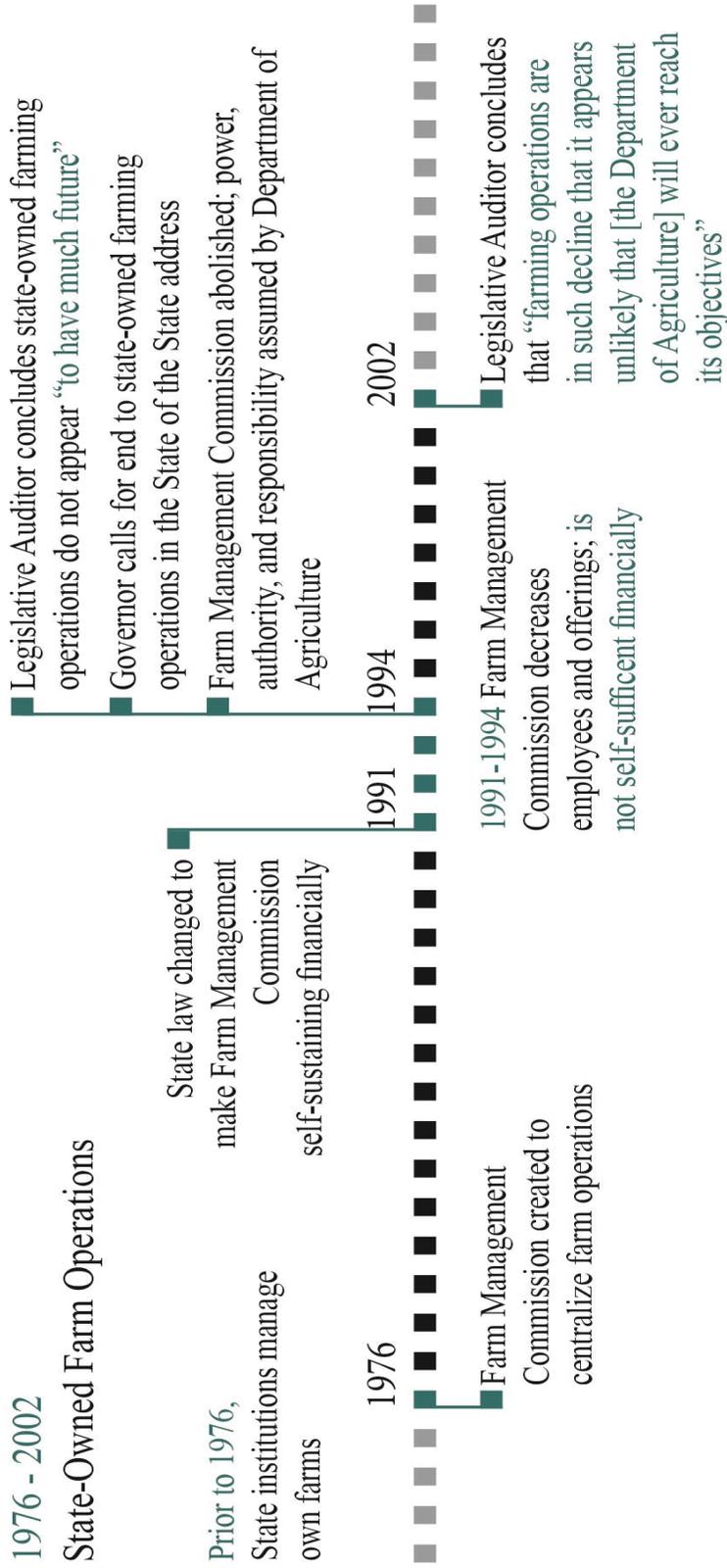
2. *The Department of Agriculture should evaluate alternative uses for land, equipment, and other assets currently utilized for such farm operations that, at a minimum, will allow the Department of Agriculture to eliminate the net operating losses that have amounted to approximately \$2.6 million from Fiscal Year 2015 through 2017. Further, the WVDA should report to the Post Audits Subcommittee in November 2017 to (1) communicate the results of its evaluation of alternative uses for land, equipment, and other assets; (2) present its proposed plan to eliminate operating losses; and (3) present its proposed plans for moving forward in response to the issues identified in this report.*
3. *The Legislative Auditor recommends that the Department of Agriculture comply with W.Va. Code §19-12A-6 and provide the Legislature its annual report of the department's farm operations for Fiscal Year 2017 that includes a listing of all receipts and expenditures related to such operations. Subsequently, this annual report should be provided to the Legislature each year the Department of Agriculture's farms remain in operation. Alternatively, the Department of Agriculture can report specifically the revenue and expenditures for the farm operations in the annual report that the Department already prepares, so long as the information provided in that report clearly states all revenues and expenditures related to farm operations separately of other financial data of the Department and meets the requirements set forth in W.Va. Code §19-12A-6.*

The Legislative Auditor makes the following recommendations should the Department of Agriculture choose to continue state-owned farm operations:

4. *The Legislative Auditor recommends the Legislature consider reviewing and amending the W.Va. Code sections governing these farm operations to reflect the current operations of the Department of Agriculture institutional farms and to clarify the intent of the Legislature in regard to the operation of those farms. Identified code sections that require such review and amendment include the following:*
 - *W.Va. Code §19-12A-6 – to determine if the statutory transfer from the Division of Corrections and the Department of Health and Human Resources is required each fiscal year, or if that requirement was only to be a one-time transfer in 1990.*
 - *W.Va. Code §19-12A-5(b) – to clarify whether the Department of Agriculture can purchase cattle from an outside vendor to be supplied to Division of Corrections and the Department of Health and Human Resources meat processors with an additional mark-up fee for costs incurred from delivery; and to clarify the sale of cattle raised on Department of Agriculture farms deemed excess to the open market, while at the same time engaging in the purchase and resale of cattle for state institutions.*

- *W.Va. Code §19-12A-5(b) – to consider amending the “shall” provision requiring the purchase of food commodities from the Department of Agriculture in order to authorize the Division of Corrections and the Department of Health and Human Resources to purchase food commodities from a vendor of their choosing to allow for the most fiscally responsible method for those agencies to provide food to inmates and residents of facilities under their purview.*
 - *Additionally, all W.Va. Code sections that reference the abolished “Farm Management Commission” should be amended to state the “Commissioner of the Department of Agriculture” who was transferred all powers, duties, and responsibilities of the Farm Management Commission in W.Va. Code §19-12A-1a(a). Further, amendments should be made to any other sections of W.Va. Code governing the farm operations that the Legislature deems to require such revision in an effort to (1) address issues identified in this report; (2) reflect more accurately the current operations of the institutional farms; or (3) clarify the intent of the Legislature for the operation of those farms.*
5. *The Legislative Auditor recommends that the Department of Agriculture and Division of Corrections sign and document sufficient agreements to govern the labor of Division of Corrections inmates on state-owned farms.*

Timeline of State-Owned Institutional Farms



Background

The management of state-owned farms has undergone dramatic changes over the past 40 years in an attempt to improve their operations in the face of persistent systemic challenges. Until 1976, state correctional and health institutions independently administered state-owned farms to serve their needs. Most inmates and residents worked on the farms to provide the majority of needed commodities, including processed meat, dairy products, canned food, and numerous crops. At that time, over 500 employees¹ worked on state-owned farms.

After a study of state-owned farms was released in 1976, the West Virginia Legislature (the “Legislature”) formed the Farm Management Commission (the “Commission”) to centralize the management and operation of state-owned farms. The Commission’s charge was to supply state institutions with food commodities at no cost while simultaneously providing a work environment for the therapy and rehabilitation of institutional inmates, patients, and residents. The Commission was funded largely through state appropriations until 1991 when the Legislature amended state law to require the Commission to be self-sustaining. After losing its state appropriations, the Commission relied on revenues generated from farm sales and timber sales to support these farming operations. Also, at this time, the Legislature amended state law to require DOC and DHHR to purchase needed food commodities from the Commission, thereby giving the Commission a captive customer base.

Despite its captive customer base, farm operating expenses exceeded the revenues generated through the sale of these food commodities from 1991 through 1994. The Commission stopped breeding hogs on its farms and began to purchase hogs on the open market to meet the needs of state institutions. Additionally, the large correctional institution at Huttonsville was allowed to purchase beef from the private market after expressing concerns in a response to a survey from the Legislative Auditor. The decline in the Commission’s assets, services, and customer demand likely precipitated the decline of farming operations during this period. The Commission essentially operated only four farms, used another two for grazing lands, and abandoned eight others. The Commission also steadily decreased its number of employees and livestock purchases. Even with these significant cost-saving measures, **the Commission did not meet the Legislature’s intent to be financially self-supporting solely based on its farm operations and, instead, relied upon the revenues gained through timber sales.**

Reviewing the Commission’s effectiveness in a 1994 report, the Legislative Auditor concluded the following:

[A]s long as the Commission had a legislative appropriation[,] it appeared to function adequately, but the loss of that appropriation in 1990 had reduced the success of the Commission. The Commission had stopped using many of the farms and ... the land had begun to overgrow. ... The Commission’s financial goals were never met[.] ... Managing these lands and providing these services continued to be an expense that the Commission could not manage without the sale of timber. ...

¹ Historical information concerning number of employees working on farms obtained from 1994 Legislative Auditor’s report on WVDA farms. Number of state employees vs. inmate labor unavailable.

The Commission managed an operation that did not appear to have much future as a going concern. (Emphasis Added)

The Legislative Auditor was not the only high-ranking state official to be concerned with the operation of state-owned farms, as the Commission itself—comprised of the Commissioner of Agriculture, the position that is now the Cabinet Secretary for the Department of Administration, and the Dean of the West Virginia University School of Agriculture and Forestry—agreed with the Legislative Auditor’s assessment. **Additionally, former Governor Gaston Caperton, highlighting its significance and priority in his 1994 State of the State address, called publicly for the abolishment of the Commission and state-owned farming operations to make state government more cost effective.** The Governor’s intention was to stop the Commission’s operations, sell the farms, and let state institutions purchase needed commodities on the open market.

Despite calls to stop farm operations from both the legislative and executive branches, the scope of WVDA’s purview was expanded. In the same year that the Governor and the Commission publicly emphasized the need to stop the State’s farm operations, WVDA and the Commissioner of Agriculture were granted all the powers, duties, and responsibilities previously granted to the Commission.

The Legislative Auditor’s 2002 report echoed conclusions drawn in 1994 by finding that **WVDA farming operations were “inefficient and in significant decline.”** The Legislative Auditor further concluded that the **“farming operations are in such decline that it appears unlikely that the [WVDA] will ever achieve its objectives.”** These objectives included “increasing the quantity of products in order to operate farms at full capacity, increasing the variety of products, achieving self-sufficiency, marketing products in other areas, and utilizing a greater prison inmate work force.”

The conclusions of the Legislative Auditor’s 2002 report were based on the following four areas of concern, as described in the report’s own words:

1. Food produced by the WVDA cost more than the private sector.

The prices charged state institutions...[were] wholesale and competitive. However, the fact that [WVDA] lost an annual average of more than \$480,000 [from 1999-2002] and institutions must pay processing and delivery charges to third parties for meat [resulted in] its products [being] more expensive to the State [when compared to] purchasing from the private sector.

2. Purchasing food from WVDA was burdensome.

Certain state institutions [were] required by law to purchase some food from the [WVDA]. Institutions complain[ed] that they must purchase an entire hog or head of cattle and pay...third party delivery and processing charges even though they may prefer to purchase only inexpensive cuts,

such as hamburger. Institutions also complained that purchased animals are relatively small.

3. The amount and quality of food produced by WVDA farms dropped significantly.

[WVDA's] farms [were] not operat[ing] at full capacity. Only 4 of the 12 state properties [were] used for farming. The number of state employees working on state farms...dropped from 38 in 1988 to 9 in 2002. In addition, during the 1970s and 1980s, state farms operated a cannery and produced a wide variety of products such as livestock, poultry, milk, potatoes, corn, tomatoes, onions, cabbage, carrots, cucumbers, fruits[,] and other crops. [In 2002], state farms produce[d] only beef, pork[,] and potatoes. With respect to these three commodities, the farms [were] able to provide all that [was] requested of them by the purchasing institutions. Increasing [the] variety of products was a goal of the [WVDA] for several years. However, the attempt to grow vegetables was eliminated because of the lack of transportation to deliver goods timely and storage and processing facilities.

4. Limited work opportunities existed for correctional inmates to work on WVDA farms.

[In 2002], only 1% to 3% of the prison population at Pruntytown and Huttonsville work[ed] on state farms. During the 1970s and 1980s[,] the majority of prisoners at Huttonsville worked on state farms. The [WVDA] has stated for several years its objective to increase inmate farm labor, but [it has not been] achieved.

Accordingly, the objective of the Post Audit Division's current review of WVDA farm operations was to determine if WVDA's management of institutional farms is meeting the legislative intent of W.Va. Code §19-12A-5 by producing food products for state institutions in the most efficient manner. To achieve the audit objective, the Post Audit Division sought answers to the following audit questions based on issues previously identified by the Legislative Auditor:

- 1. Did WVDA implement corrective actions to address the inefficiencies and significant decline of state-owned farm operations identified by the Legislative Auditor first in 1994 and again in 2002?**
- 2. Are WVDA farms financially self-sustainable?**
- 3. Are current WVDA farm operations in accordance with the requirements set forth in W.Va. Code §19-12A-5(b) and, further, are these operations "most efficiently produc[ing] food products for state institutions"?**

- 4. To what extent do WVDA farming operations provide rehabilitative labor opportunities for DOC inmates?**
- 5. Is WVDA complying with W.Va. Code §19-12A-6 by preparing and presenting an annual report to the Legislature specific to state-owned farm operations at the end of each fiscal year?**

Audit Question 1: Did WVDA implement corrective actions to address the inefficiencies and significant decline of state-owned farm operations identified by the Legislative Auditor first in 1994 and again in 2002?

Brief Answer: No.

The inefficiencies and significant decline of state-owned farms caused by persistent systemic challenges are still evident today and do not appear to have been addressed by WVDA since first identified by the Legislative Auditor in 1994 and again in 2002.

As a follow up to the concerns identified in 2002, the Post Audit Division determined the following:

- **WVDA’s cost to produce food commodities as set forth by W.Va. Code §19-12a-5(b) is greater than in 2002.**

The cost to produce food commodities on WVDA farms today is more expensive, making current farm operations far less cost effective. When comparing the current expenses incurred by WVDA to those incurred from farm operations in 2002 (when WVDA produced more food commodities than its current operations today), current costs are approximately \$200,000 more, even when adjusted for inflation. In other words: Today, WVDA farms are producing less food commodities at higher costs. The farms’ operating losses have increased significantly since 2002 and totaled approximately \$2.6 million from Fiscal Years 2015 through 2017. This topic is detailed further in response to **Audit Questions 2 and 3** of this report.

- **State agencies continue to be burdened—both financially and procedurally—by having to purchase food from the WVDA.**

As required by W.Va. Code §19-12A-5(b):

“...[WVDA must] manage its institutional farms, equipment and other property in order to most efficiently produce food products for state institutions...”; and “... each of the institutions under the control of [DHHR] and [DOC] shall purchase, a proportionate amount of these products based on the dietary needs of each institution.” (Emphasis Added)

The Cabinet Secretary for the Department of Military Affairs and Public Safety (“DMAPS”) stated that DOC has experienced some issues with the current arrangement of purchasing meat through WVDA and, accordingly, desires to have the option to purchase meat from an outside vendor to ensure it is operating in the most fiscally responsible method to meet its food needs. DOC representatives also stated that the use of outside vendors could save DOC \$130,000 per year. DHHR stated that, while it has not performed any evaluation of the cost of purchasing meat

through WVDA versus other food service vendors, it currently uses outside vendors to purchase chicken, processed meats, and other meat products. This issue is discussed in further detail in response to **Audit Question 3**.

- **WVDA produces less food than in 2002 and cannot fill the entirety of orders placed by state agencies.**

In 2002, WVDA farms produced enough food commodities to fulfill the beef, pork, and potato needs of state agencies statutorily required to purchase from the department. Today, however, WVDA does not raise hogs on the farms and must purchase them from an outside vendor and arrange delivery to DHHR and DOC contracted meat processors to fulfill those agencies' orders for pork. For hamburger meat required by DOC, WVDA purchases cattle from an outside vendor for delivery to DOC contracted meat processors because the cattle raised on WVDA farms is of too high quality to be processed into lower-quality hamburger meat. This is discussed further in the answer to **Audit Question 3**.

- **Less opportunities exist today for correctional inmates to work on WVDA farms compared to 2002.**

As was the case in 2002, less than 1% of correctional inmates work on WVDA farms at Huttonsville and Pruntytown. These opportunities are further limited due to current security concerns. This is discussed further in the answer to **Audit Question 4** of this report.

Since 2002, WVDA farm operations have continued to decline and today are more inefficient than when the Legislative Auditor first reviewed their operation over two decades ago. As part of the 2002 review, the Legislative Auditor concluded the following:

[T]he legal requirement to have certain state institutions purchase food from the [WVDA] is maintaining an inefficient and declining system.

Further, the Legislative Auditor recommended the following in 2002:

- *[WVDA should develop] a comprehensive study that reflects the total cost to bring the farm operations to self-sufficiency and full capacity [and to] address the concerns of state institutions with respect to the lack of variety and their inability to purchase select cuts of meat instead of having to purchase an entire animal.*
- *[WVDA should conduct] a comprehensive cost-benefit analysis on the alternative uses of lands currently used for farming, including such options as closing farm operations [and] utilizing food contractors for all state institutions[.]*

As part of its review, the Post Audit Division requested copies of any past comprehensive studies, responses to agency concerns, or cost-benefit analyses completed by WVDA in response to the Legislative Auditor's recommendations from 2002. While recognizing this

request is for documents that would have been initially filed 15 years ago, the Legislative Auditor nevertheless notes that no such studies, analyses, or other related information could be provided by WVDA.

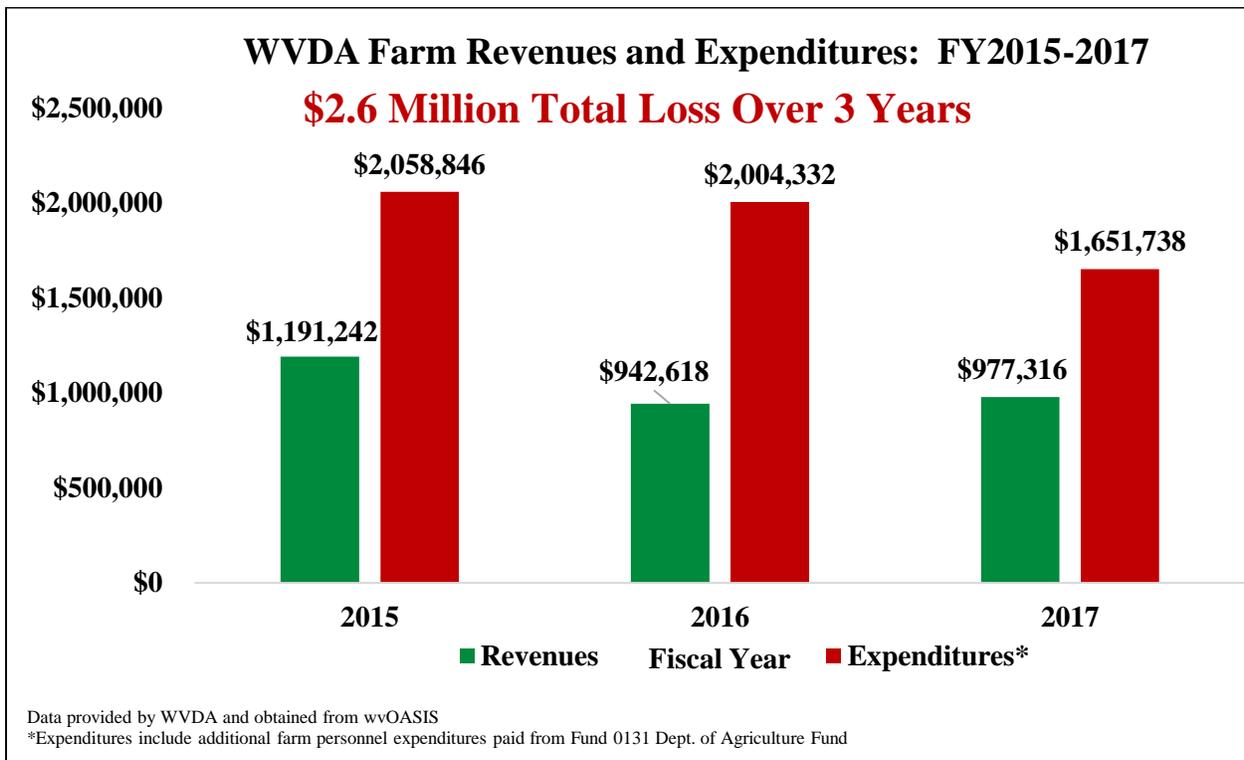
Audit Question 2: Are WVDA farms financially self-sustainable?

Brief Answer: No.

Based on the Post Audit analysis of farm revenues and expenditures, WVDA farms are not financially self-sustainable. WVDA farms incurred an average annual net operating loss of \$878,000 from Fiscal Years 2015 through 2017, for a total net operating loss of \$2.6 million over the most recent three years.

Currently, WVDA actively farms at four locations: Huttonsville, Lakin, McCausland, and Pruntytown. Additionally, some revenues are generated at Sweet Springs and also through the Equipment Division and Land Administration Division. These farm operations combined lost an average of approximately \$878,000 in each of the last three fiscal years, totalling approximately \$2.6 million in losses from Fiscal Year 2015 through 2017, as illustrated in the chart below.

Figure 1. Farm Revenues and Expenditures for Fiscal Years 2015 through 2017



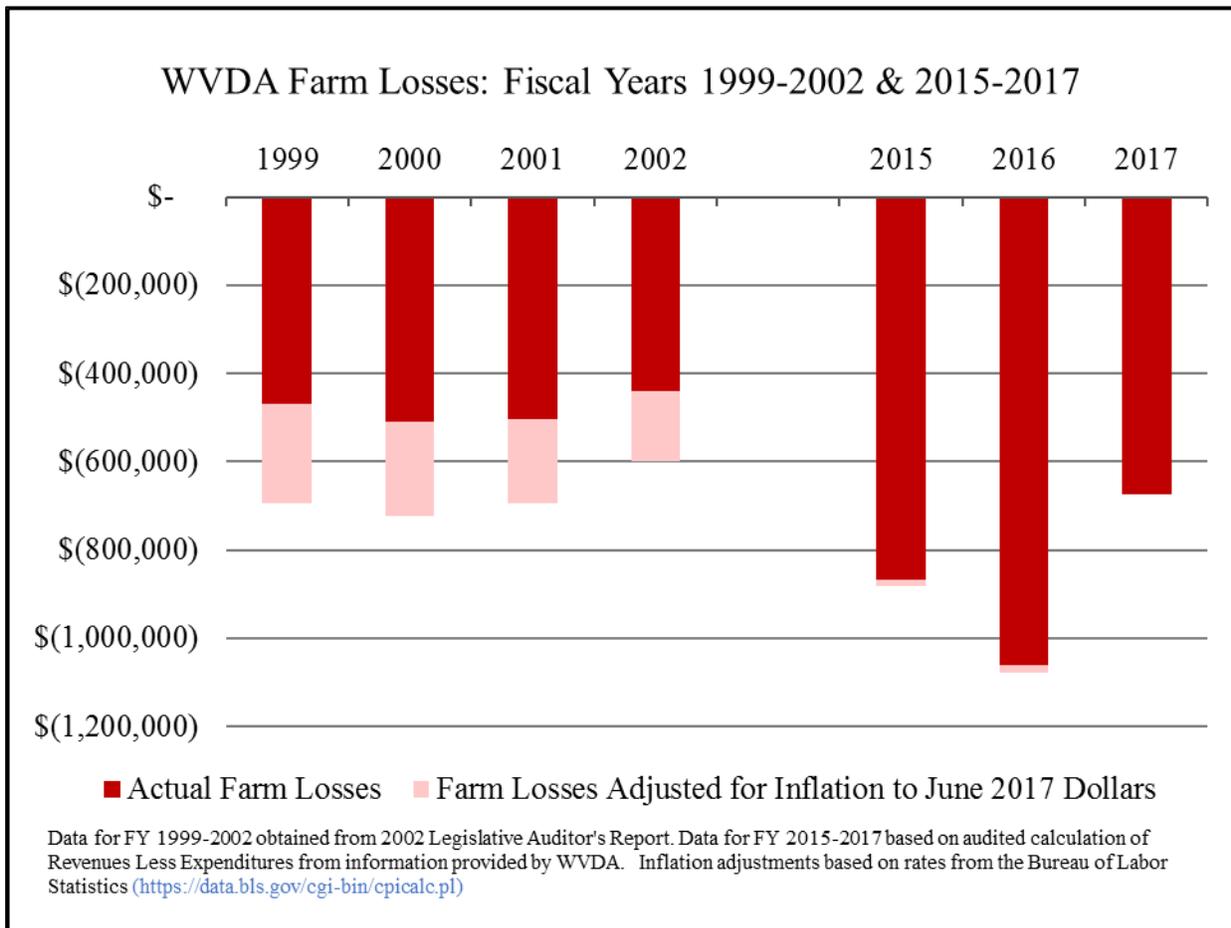
The aforementioned 2002 report by the Legislative Auditor calculated the operating deficits of WVDA farms for Fiscal Years 1999 through 2002. For comparative purposes, the following table presents the deficits both in terms of actual dollars and in today's dollar amounts adjusted for inflation according to information provided by the Bureau of Labor Statistics. These amounts adjusted for inflation provide an accurate comparison of losses incurred from Fiscal Years 1999 through 2002 and 2015 through 2017.

Figure 2. Farm Loss Comparison – Adjusted for Inflation for Fiscal Years 1999 - 2002 and 2015 - 2017

Farm Loss Comparison - Adjusted for Inflation			
Fiscal Years 1999-2002 and 2015-2017			
Fiscal Year	Farm Losses (Actual)	Farm Losses (Adj. for Inflation)	Average Annual Loss (Adj. for Inflation)
1999	(\$470,251)	(\$693,083)	(\$677,446)
2000	(\$509,780)	(\$724,322)	
2001	(\$504,671)	(\$694,504)	
2002	(\$439,092)	(\$597,875)	
2015	(\$867,604)	(\$881,777)	(\$878,419)
2016	(\$1,061,714)	(\$1,079,057)	
2017	(\$674,422)	(\$674,422)	

Data for FY 1999-2002 obtained from 2002 Legislative Auditor's Report. Data for FY 2015-2017 based on audited calculation of Revenues Less Expenditures from information provided by WVDA. Inflation adjustments based on rates from the Bureau of Labor Statistics (<https://data.bls.gov/cgi-bin/cpicalc.pl>)

Figure 3. Farm Loss Comparison – Adjusted for Inflation for Fiscal Years 1999 - 2002 and 2015 - 2017



As shown in Figures 2 and 3, when adjusted for inflation, WVDA farm operations on average lost over \$675,000 annually from Fiscal Year 1999 through 2002 with yearly losses ranging from approximately \$600,000 to \$725,000. Thirteen years later, the average annual total loss for WVDA farms from Fiscal Year 2015 through 2017 increases over \$200,000 to approximately \$878,000. Included in the latest average is over \$1 million in losses incurred in a single year. In terms of both actual losses and when adjusting those losses for inflation, **WVDA farms have further declined to a point where they are now operating at least \$200,000 per year more inefficiently than when the Legislative Auditor concluded they were “inefficient and in significant decline” in 2002.**

The Farm Operating Fund (Fund 1412) is the primary operating fund for these farm operations; however, a small portion of revenues and expenditures are recorded in at least four other funds under WVDA. Based on an analysis of the Farm Operating Fund for Fiscal Years 2002 through 2017, farm operations have continued to incur annual operating losses almost every year since 2002. Only in seven out of the last 16 fiscal years did the Farm Operating Fund record more revenues than expenditures. However, as illustrated in Figure 4, revenues in these seven years were generated from sources outside of farming operations including timber sales, lease fees, right-of-way fees, and oil and gas royalties. Over the course of these seven years, WVDA generated \$5.6 million from these non-farming sources that included timber sales totaling approximately \$2 million and \$3 million in revenue from lease fees, including a one-time lease fee revenue of \$1.82 million in Fiscal Year 2012. Without this \$5.6 million in non-farming revenue, the Farm Operating Fund would have had a net loss of \$3.5 million from farm operations in those seven fiscal years.

Figure 4. Farm Operating Fund Analysis (Fund 1412) – Selected Fiscal Years with Net Revenues

Farm Operating Fund (Fund 1412) Profit/(Loss) Analysis - Less Other Revenue				
Fiscal Year	2003	2005	2008	2009
Revenues	\$1,122,162	\$1,191,585	\$1,563,117	\$1,199,800
Expenditures*	(\$798,087)	(\$1,122,030)	(\$1,287,358)	(\$1,167,426)
Profit/(Loss)	\$324,075	\$69,556	\$275,759	\$32,374
Timber Sales	\$477,382	\$311,203	\$315,715	\$254,263
Royalties - Oil/Gas	\$43,163	\$87,910	\$131,556	\$127,454
Right of Way Fees	\$6,282	\$6,076	\$6,832	\$7,496
Lease Fees	\$11,345	\$113,033	\$25,285	\$15,385
Profit/(Loss) Less Other Revenue	(\$214,097)	(\$448,666)	(\$203,629)	(\$372,224)
Fiscal Year	2012	2016	2017	Totals
Revenues	\$2,707,851	\$1,776,299	\$1,666,914	\$11,227,728
Expenditures*	(\$1,385,995)	(\$1,702,240)	(\$1,642,179)	(\$9,105,315)
Profit/(Loss)	\$1,321,855	\$74,059	\$24,735	\$2,122,413
Timber Sales	\$45,000	\$608,707	\$9,396	\$2,021,666
Royalties - Oil/Gas	\$52,527	\$12,938	\$13,807	\$469,356
Right of Way Fees	\$14,660	\$16,089	\$15,215	\$72,650
Lease Fees	\$1,840,010	\$373,118	\$707,125	\$3,085,301
Profit/(Loss) Less Other Revenue	(\$630,343)	(\$936,793)	(\$720,808)	(\$3,526,560)

Revenue and Expenditure Data for FY 2003, 2005, 2008, 2009, and 2012 obtained from WVFIMS and from wvOASIS for FY 2015-2017.
 "Other Revenue" amounts provided by WVDA and obtained from WVFIMS.
 * Includes 13th Month FY Carryover Expenditures, Does Not Include Farm Personnel Expenses Paid from Fund 0131.

Without considering these other revenue sources as a component of the Farm Operating Fund analysis, **the Farm Operating Fund had a net loss of approximately \$7.05 million since 2002, most notably operating at nearly a \$1 million net loss in Fiscal Year 2016.** A complete breakdown of these fund operating losses can be found on page 37 (Appendix C) of this report.

The Potato Demonstration Project by the Previous Department of Agriculture Administration Contributed \$1.26 Million in Farm Operating Expenses for Fiscal Years 2015 through 2017

Upon reviewing a draft copy of this report, the current Chief of Staff of the Department of Agriculture asserted that expenses of the state-owned farms were increased by the previous administration’s projects. The project referenced is the WVDA program that began in 2015 and ran into 2017 known as the Potato Demonstration Project. As described by the current WVDA Commissioner in a letter dated September 6, 2017:

The Potato Demonstration Project ... was an effort by [WVDA] in partnership with the WV State Conservation Committee and the Conservation Districts to demonstrate that the production of potatoes in West Virginia could be a viable option on West Virginia farms and a potential contributor to the State’s economy.

The Commissioner also stated:

The current administration continues to support the Conservation Districts in completing their pilot projects without expending new or additional state dollars. The Department is in the process of transitioning the role of on-going support for the exploration and development of future projects to the Conservation Districts.

The Legislative Auditor requested WVDA identify expenditures from Fiscal Years 2015 through 2017 directly related to the Potato Demonstration Project. Such expenditures totaled approximately \$1.26 million over the three-year period as illustrated in Figure 5.

Figure 5. Potato Demonstration Project Direct Expenses for Fiscal Years 2015 through 2017

Potato Demonstration Project Expenditures				
	FY2015	FY2016	FY2017	Total
Procurement Expenditures	\$168,726	\$563,730	\$62,956	\$795,412
Non-Procurement Expenditures	\$217,674	\$142,359	\$104,796	\$464,828
Total	\$386,400	\$706,089	\$167,752	\$1,260,240

Unaudited data provided by WVDA via wvOASIS procurement transactions for Fund 1412

These expenditures include the following:

- A John Deere tractor costing approximately \$124,000;
- Pre-owned potato processing equipment via a sole source contract at a cost of \$47,300;
- Two **emergency purchases** of “potato bins” or “agricultural containers” totaling \$154,810;
- One **emergency purchase** of a “potato washing/bagging/processing line” at a cost of approximately \$23,400;
- Seed potatoes totaling over \$51,000;
- An additional \$61,000 for boxes, bags and ties, or other storage bins to store potatoes); and
- Non-procurement expenditures involving the expenditure of funds for the Potato Demonstration Project not related to the purchase of equipment assets totaling approximately \$465,000.

It must be noted that while the approximately \$1.26 million of expenses directly related to the Potato Demonstration Project increased WVDA state-owned farm expenses, the net operating loss for the farms would still be approximately \$1.34 million from Fiscal Year 2015 to 2017. While these expenditures were identified as being a contributing factor of the farm losses for Fiscal Years 2015 through 2017, it has not been determined if administrations prior to that period also expended monies from the Farm Operating Fund on projects or equipment unrelated to the operation of state-owned farms as set out by W.Va. Code §19-12A-5. Additionally, WVDA officials also pointed out an expenditure not directly related to the Potato Demonstration Project for a “mobile poultry processing unit” that was purchased at a cost of \$158,000 in July 2016, under the previous administration. The current WVDA leadership considers this unit to be unnecessary for its operations and, accordingly, is currently in the process of selling the asset through the State Agency for Surplus Property.

Audit Question 3: Are current WVDA farm operations in accordance with the requirements set forth in W.Va. Code §19-12A-5(b) and, further, are these operations “most efficiently produc[ing] food products for state institutions”?

Brief Answer: No.

All pork currently supplied by WVDA to state institutions, and a majority of hamburger beef supplied to DOC, is not sourced from livestock raised on these farms. Rather, it is sourced and processed from hogs and cattle purchased by WVDA from livestock markets and delivered to processors with an additional delivery mark-up to cover WVDA’s cost incurred as the intermediary.

W.Va. Code §19-12A-5(b) codifies the purpose of and process for the sale of food, milk, and other commodities produced on WVDA-owned farms to DOC, DHHR, and other state institutions, as it reads:

*The [WVDA] shall manage its institutional farms, equipment and other property in order **to most efficiently produce** food products for state institutions and shall implement the intent of the Legislature as set forth by this article. From the total amount of food, milk and other commodities produced on institutional farms, the [WVDA] shall sell, at prevailing wholesale prices, and each of the institutions under the control of the bureau of public health and the division of corrections shall purchase, a proportionate amount of these products based on the dietary needs of each institution. (Emphasis Added)*

Currently, WVDA solicits the type and amount of food product needed by DOC and DHHR each month. WVDA fulfills cattle meat orders first by sending cattle that were raised on one of four WVDA-owned farms to a meat processor with whom DOC or DHHR contracts. When an order by DOC or DHHR is for more cattle meat than is currently available on WVDA-owned farms, WVDA purchases additional cattle from the open market and delivers the cattle to processors.² In Fiscal Year 2017, WVDA purchased approximately 150 cattle to fulfill orders above and beyond what it produced on its own farms. Further, WVDA does not raise hogs on its farms and, therefore, fulfills all orders for pork meat by purchasing the hogs and delivering them to a processor. In Fiscal Year 2016, WVDA purchased over 400 hogs to fulfill the entirety of orders by state institutions— at a cost of approximately \$71,000 paid exclusively to producers outside the state of West Virginia. WVDA bought approximately 450 hogs to fulfill the entirety of orders in Fiscal Year 2017—with less than 30% purchased from West Virginia producers. WVDA currently charges DOC and DHHR the amount it paid for the cattle or hogs plus a 12-cent-per-pound mark-up in an attempt to cover its costs.

² The Legislative Auditor considers it important to note that the purchase and sale of livestock is conducted by licensed auctioneers—who, according to W.Va. Code §19-2C, WVDA licenses and regulates. The Legislative Auditor’s intent is not to imply the presence of any fraudulent, improper, or inappropriate behavior by auctioneers or WVDA officials, but rather to point out the increased risk associated with the arrangement.

W.Va. Code §19-12A-5(b) clearly sets forth the Legislature’s intent for the sale of food products by WVDA to DHHR and DOC to be made in the interest of efficiency and savings to the State. Further, the statute states that WVDA is to sell to state agencies food, milk, and commodities **from what it produces on its own farms**. The statute is silent and does not explicitly provide for WVDA to buy food commodities from the open market and then re-sell the commodities to state agencies after imposing a mark-up fee. WVDA’s current practices run outside the scope of its enabling statutory authorization and—with consideration of the aforementioned \$2.6 million dollar operating loss over the past three fiscal years—are not providing food products most efficiently for state agencies.

The Post Audit Division inquired of DHHR and DOC concerning any issues that have arisen in recent years regarding the arrangement to purchase meat through WVDA. DHHR reported only one negligible issue related to the yield from hogs supplied to the processor but otherwise stated no problems with the current arrangement. However, concerns were expressed by the DMAPS Cabinet Secretary. In his response, which can be read in its entirety on page 38 (Appendix D) of this report, the Cabinet Secretary expressed many of the same concerns regarding the price and quality of cattle beef received as previously described in the Legislative Auditor’s 2002 report, specifically:

1. **Lack of appropriate quality of cattle available.** Cattle are categorized by the quality of beef they will yield after processing. Cattle that produce lower quality meat will often yield hamburger meat, while cattle that produce higher quality meat will often yield steak quality cuts of meat. At times, when DOC needed lower-quality meat for hamburger, WVDA indicated that no such cows were available. In such instances, WVDA would supply cattle considered higher quality. Therefore, DOC would have to pay a greater rate for higher quality cattle than what was actually needed.
2. **Quality and yield deficiencies.** Despite recent improvements the quality and yield of meat, after cattle supplied by WVDA is processed, does not meet industry standards according to DOC as communicated by the DMAPS Cabinet Secretary. However, it was expressed that some of these concerns may lie with the food processors with whom DOC contracts.
3. **Advanced payments required.**

W.Va. Code §19-12A-6 states:

On the first day of July, one thousand nine hundred ninety, the division of health and the division of corrections shall each transfer, by interdepartmental transfer, the sum of two hundred thousand dollars to the farm management commission to be credited toward their purchase of food products from the commission. (Emphasis Added)

Despite this transfer being statutorily required for only one time in 1990, subsequent budget bills from 1990 through today have included an advance payment made by DOC and DHHR to Agriculture, with such payments now totaling over \$500,000 annually. The advance payments each year are then offset with purchases of meat over the fiscal year, with deductions taken from this credit. This advanced payment, combined with quality and yield issues described, make it difficult for DOC to stay within budget. Further, it should be noted that standard terms and conditions of contracts between state agencies and private sector vendors prohibit state agencies to pay in advance for services to be provided at some future date. Yet this agreement between state agencies does allow for advance payment prior to receipt of services.

4. **Higher quality meat at lower prices available from other suppliers at an estimated annual cost savings of \$130,000.** DOC estimates it could save \$130,000 per year by purchasing the same amount of hamburger meat—and of a higher quality than cattle supplied from WVDA has produced—from its current food service vendor which it also uses to fulfill orders for food commodities not produced by the WVDA.

Based on these concerns alone, it is reasonable to conclude that Agriculture is not providing food products for state institutions in a most efficient manner. Further, not all of the cattle raised on WVDA farms is supplied to state institutions. The WVDA often sells excess cattle to the open market. W.Va. Code §19-12A-6 governs the priority WVDA must follow in the distribution of its food commodities, reading:

If institutional farms produce more food, milk and other commodities than can be sold to the institutions, the [WVDA] may sell the surplus to other state agencies willing to purchase. If any surplus remains after sales to other state agencies, the [WVDA] may sell the surplus on the open market, or at the discretion of the [WVDA], turn over any surplus food products to appropriate public, nonprofit agencies upon application.

The statutory language clearly sets the priority as to whom WVDA is to sell: first, specific state institutions like DOC and DHHR; second, other state agencies; and third, the open market (or donated to public nonprofit agencies). **Accordingly, the only time WVDA is authorized to sell a food commodity on the open market is when it produces higher quantities of that commodity than is needed to fulfill the entirety of orders by state institutions.** It has already been noted in this answer that WVDA is currently purchasing hundreds of cattle on the open market to fulfill orders for beef by state institutions, which implies, by statute, that WVDA has no excess cattle to sell to other state agencies or on the open market. **However, almost one-third of WVDA cattle sales over the last three fiscal years have been on the open market, as Figure 6 illustrates.**³

³ The Legislative Auditor considers it important to note that the purchase and sale of livestock is conducted by licensed auctioneers—who, according to W.Va. Code §19-2C, WVDA licenses and regulates. The Legislative Auditor’s intent is not to imply the presence of any fraudulent, improper, or inappropriate behavior by auctioneers or WVDA officials, but rather to point out the increased risk associated with the arrangement.

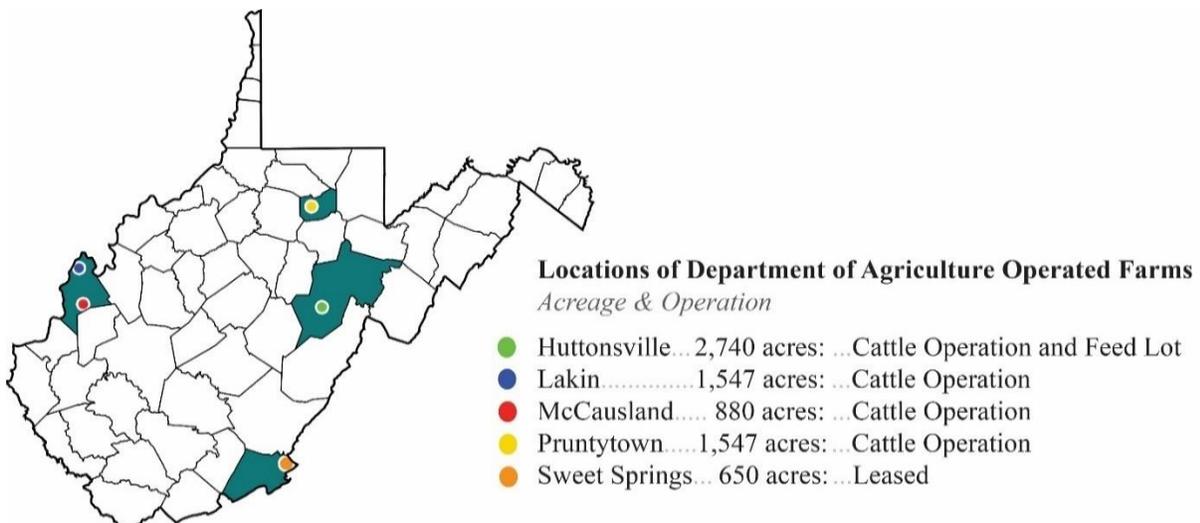
Figure 6. WVDA Cattle Sales to State Institutions vs. Open Market for Fiscal Years 2015 - 2017

WVDA Cattle Sales - Fiscal Years 2015-2017		
Fiscal Year	Cattle Sales to State Institutions	Cattle Sales to Open Market
2015	\$565,298	\$347,104
2016	\$558,126	\$109,618
2017	\$382,959	\$230,410
Total	\$1,506,382	\$687,131
% of Total Sales	69%	31%

Unaudited data provided by WVDA

To explain the significance of this proportion of cattle being sold on the open market, it is important to understand the current cattle operations at WVDA farms. As shown by Figure 7 below, WVDA operates four cattle farms: Prunytown, Huttonsville, and Lakin which are adjacent to correctional institutions, and McCausland which is in Mason County. WVDA maintains a producing cow herd of approximately 650 cows. These producing females’ offspring are used to replenish the cow herd and also supply institutions with meat. Cattle are sold to state institutions at market rate plus trucking expenses. For example, hamburger cows are sold at \$0.81 per pound and finished beef cows at \$1.43 per pound (price per pound live weight). Hamburger cows produce lower quality meat in terms of quality of cuts and yield, whereas finished beef cows produce more quality cuts of beef with a higher yield. If the WVDA does not have the cattle available on the farms to fill that month’s order, the cattle are purchased at live auctions at W.Va. livestock markets throughout the State. In the event that excess cattle remain on the farms, these excess cattle are sold at either public auction at W.Va. livestock markets or through receiving bids from meat companies. Prices for these open market sales range from \$1.00-\$1.50 per pound live weight or \$1.80-\$2.30 per pound dressed weight (weight after processing) depending on the size and age of animals. It is also worth noting that in recent years WVDA has purchased black angus cows that are of even higher quality bloodline in order to breed cows that will produce higher quality beef.

Figure 7: Map of WVDA Farms with Total Acreage and Primary Operation



DOC—who, in terms of volume, is the primary purchaser of cattle from WVDA, purchasing roughly two-thirds of all beef WVDA sells to the state institutions—primarily needs lower quality “hamburger cows” to serve inmates. However, most cattle raised on WVDA farms is considered to be finished beef cattle, which is normally sold at a higher price (\$1.43/lb. vs. \$0.81/lb.). From a purely financial perspective apart from statutory authorization or legislative intent, if WVDA has cows that are bred to produce higher quality beef, then it makes sense for WVDA to purchase cows that were bred to produce lower quality beef on the open market to be integrated into the WVDA farm operations in order to meet DOC’s beef needs. WVDA would then be able to meet the statutory requirement of fulfilling the meat orders of state institutions from “*the total amount of food, milk and other commodities produced on institutional farms,*” rather than having to purchase and deliver it with a mark-up for delivery, which WVDA has no explicit statutory authorization to do so. Then, WVDA could use its cows that produce higher quality beef to fulfill any institutional orders while selling the surplus of “higher quality” cows for a premium on the open market. However, this current situation creates a conundrum for WVDA. DOC’s requirements for meat could be filled from the higher-quality cows raised on their farms; however, selling these cows for \$0.81/lb. to DOC when the open market pays \$1.00-\$1.50/lb. does not make financial sense. This explains WVDA’s current practice of purchasing lower quality cows for DOC from auctions and selling off roughly one-third of its cattle to the open market. However, the more the WVDA engages in increasing the overall quality of its herd and selling excess high-quality cattle raised on its farms on the open W.Va. livestock markets, the risk of WVDA competing against private farmers in W.Va. increases.

Taking into consideration the reasonable concerns expressed by state institutions regarding the purchase of food commodities from WVDA, cattle purchases and sales on the open market by WVDA, and the multi-million dollar operating losses incurred annually by state-owned farms, it is clear that WVDA farm operations and practices over the past 20+ years have not conformed with the requirements of W.Va. Code to “most efficiently produce food for state institutions.”

Audit Question 4: To what extent do WVDA farming operations provide rehabilitative labor opportunities for DOC inmates?

Brief Answer: Extremely limited opportunities exist for correctional inmates to work on WVDA farms.

Historically, one societal benefit of WVDA farming operations was the opportunity provided for the therapy and rehabilitation of individuals housed in the state’s health and correctional institutions. Today, DOC may authorize the use of inmate labor as established by W.Va. Code §19-12A-5(c).

However, the Legislative Auditor’s 2002 report described such labor opportunities as “limited,” citing only 1% (10 of 935) and 3% (10 of 357) of the total DOC inmate population at the Huttonsville and Pruntytown facilities, respectively, worked on state farms. While the 2002 calculation focused on the percentage of inmates working *as part of the population of each respective facility*, the Post Audit Division’s current analysis now calculates the percentage of inmates working *as part of the total population of all DOC facilities* to describe more accurately the *collective opportunity presented for the rehabilitation of inmates by working on WVDA farms*, which is illustrated in Figure 8.

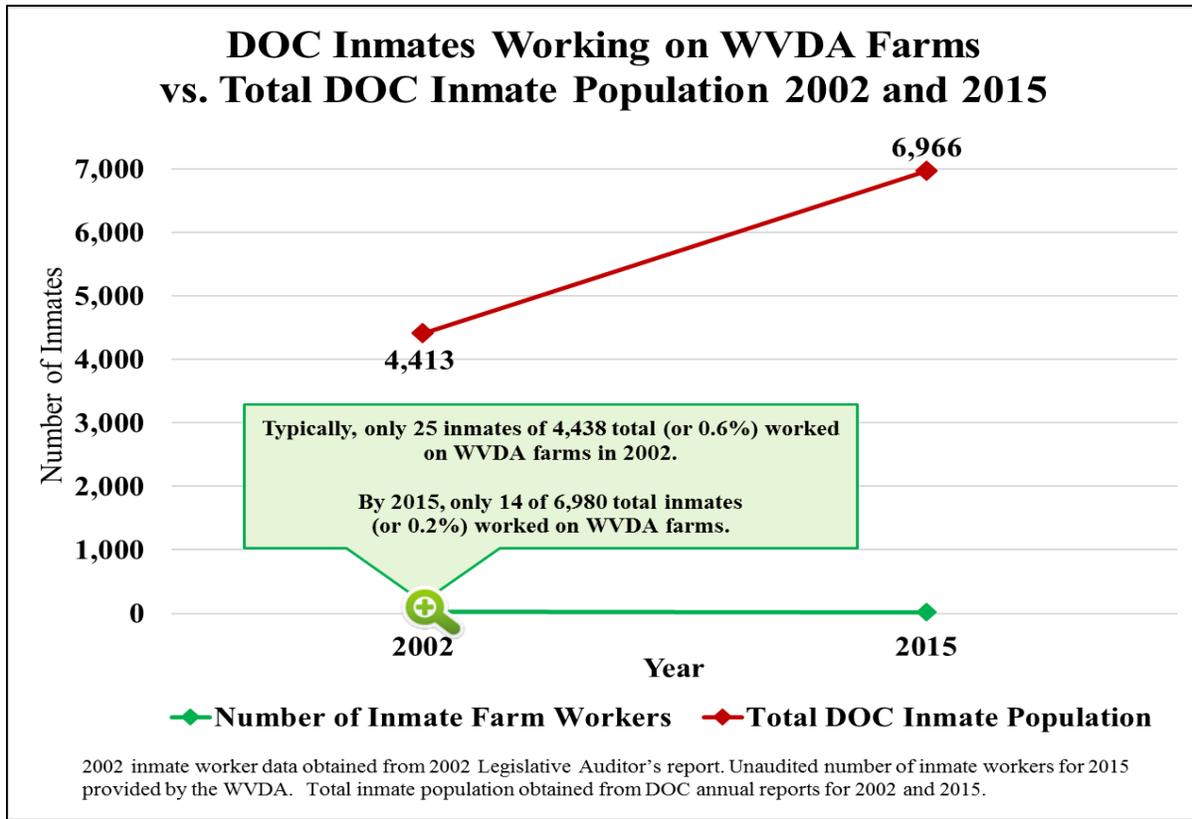
Figure 8. Number of Inmate Farm Workers Comparison - 2002 vs 2015

Number of DOC Inmate Farm Workers – 2002 vs 2015			
Year	Total DOC Inmate Population	Number of Inmate Farm Workers	% Working on WVDA Farms
2002	4,438	25	0.6%
2015	6,980	14	0.2%

2002 inmate worker data obtained from 2002 Legislative Auditor’s report. Unaudited number of inmate workers for 2015 provided by the WVDA. Total inmate population obtained from DOC annual reports for 2002 and 2015.

In 2002, only 25 DOC inmates (out of 4,438 total inmates, or 0.6%) typically worked on WVDA farms. **By 2015, only 14 DOC inmates (out of 6,980 total, or 0.2%) typically worked on WVDA farms.** This is illustrated in both Figures 8 and 9.

Figure 9. Number of Inmate Farm Workers vs Total DOC Inmate Population Comparison - 2002 vs 2015



While between 2002 and 2015 there was a 57% increase in the total DOC inmate population, the number of DOC inmates working on WVDA farms has decreased. Further, the current labor opportunities for inmates is even more constricted. As of August 10, 2017, the only labor opportunities available to DOC inmates were eight inmate labor positions at the Huttonsville farm. Labor opportunities at the Pruntytown facility are currently suspended because of security concerns regarding the introduction of contraband in the facility. No DOC inmates are currently working at the Lakin facility because no crops were planted. Accordingly, any societal benefit gained from the rehabilitation of state correctional inmates working on state-owned farms is likely negligible based on these limited opportunities. While the Commissioner of Agriculture is not aware of why the number of available inmates has historically decreased, he stated that WVDA desires to provide as many opportunities for inmate labor as possible.

Additionally, the Legislative Auditor notes that neither WVDA nor DOC could provide copies of any agreements—general or specific to farms at Huttonsville or Pruntytown—in effect to govern the use of DOC inmate labor on WVDA farms where DOC inmates are currently working. WVDA provided copies of Memorandums of Understanding in effect to govern the use of WVDA farms for DOC shooting ranges at St. Mary's, Lakin, and Huttonsville signed in 2010 and 2013. DOC provided a copy of a Memorandum of Understanding effective from 2013 through 2016 related to its request to use some land owned by WVDA for inmates to grow produce as part of a DOC project. Additionally, DOC provided a copy of a Memorandum of Understanding in effect to govern DOC inmate labor at a WVDA farm at Lakin; however, no inmates are currently working at those farms. The lack of documented agreements, policies, or procedures to govern the use of

DOC inmate labor on WVDA farms is yet another concern to weigh when considering the possibility of increasing the use of inmate labor on WVDA farms.

Audit Question 5: Is WVDA complying with W.Va. Code §19-12A-6 by preparing and presenting an annual report to the Legislature specific to state-owned farm operations at the end of each fiscal year?

Brief Answer: No.

W.Va. Code §19-12A-6 requires a detailed annual report regarding state-owned farm operations to be prepared and presented to the Legislature at the end of each fiscal year. This code section reads as follows:

*The commission shall appoint a farm management director who, in addition to qualifications established by the commission, shall have owned, operated or managed a farm for at least five years within ten years immediately prior to being appointed. The farm management director is the chief executive officer of the commission and is responsible for conducting the operations of the farms. **The director shall prepare an annual report of the farming operations, including a listing of all receipts and expenditures and shall present it to the commission and the Legislature at the end of each fiscal year.** (Emphasis Added)*

As previously discussed, the Legislature abolished the Farm Management Commission in 1994 and explicitly transferred all property, powers, and duties held previously by the Commission to the Commissioner of the Department of Agriculture, as governed by W.Va. Code §19-12A-1a(a), which states:

*The Farm Management Commission previously established by this article is hereby abolished. The real and personal property held by the commission, including all institutional farms and all easements, mineral rights, appurtenances, farm equipment, agricultural products, inventories and farm facilities, operating revenue funds for those operations, and all employees of the Farm Management Commission, are hereby transferred to the Department of Agriculture. **The Commissioner of the Department of Agriculture shall have all those powers, duties and responsibilities previously vested in the Farm Management Commission and the Farm Management Director pursuant to this article.** (Emphasis Added)*

Therefore, the requirement for the Farm Management Director to prepare and present an annual report regarding state-owned farm operations that includes all receipts and expenditures of such operations at the end of each fiscal year in accordance with W.Va. Code §19-12A-6 became the responsibility of WVDA in 1994.

In response to a request from the Post Audit Division for annual reports detailing state-owned farm operations for the most recent three fiscal years, WVDA indicated that it “does not supply any annual report to the Legislature concerning the farms except for the WVDA annual report which has a few words in it about farms.” The Legislative Auditor reasonably concludes that a brief mention of state-owned farm operations in the WVDA annual report does not meet the requirement to prepare and present an annual report specific to farm operations that includes a listing of all receipts and expenditures. Such reports would provide a reasonable basis for the WVDA and the

Legislature to make informed decisions about the continued operations of these farms and the current financial state of those operations.

Audit Conclusion

Based on the Post Audit Division's review, it is evident that persistent systemic challenges continue to constrain WVDA's farm operations. While a significant amount of time has passed since the Legislative Auditor last reported on the problems facing these farms in 2002, they continue to face the same issues. As noted, it does not appear that WVDA took action in response to the recommendations of the Legislative Auditor's 2002 report expressing concerns regarding the sustainability and inefficiency of these farm operations. Since that time, the farms have further declined and are producing less food commodities, resulting in the WVDA having to act as an intermediary to fulfill all of the food requirements of the state institutions statutorily required to purchase from it.

Although it has been 15 years since these operations were reviewed by the Legislative Auditor, the same issues concerning the decline of the farms—sustainability and inefficiencies of these operations, which have cost the state millions of dollars over the past two decades—remain evident today. Regardless of the management structure, the centralized operation of state-owned farms has not been adequate or effective since the loss of legislative appropriations in 1991. In the past 20 years, former Governor Gaston Caperton, the Legislative Auditor, and the now-abolished Farm Management Commission have all requested that these operations be ceased, evaluated, or restructured in response to the identified issues and operating losses.

The Post Audit Division's analysis of farm revenues and expenses revealed that the WVDA farm operations have generated a net operating loss each fiscal year since 2002, totaling **\$7.05 million in operating losses** when revenue from timber sales and leases are not considered. In Fiscal Year 2017 alone, the WVDA farms operated at a net loss of over \$1 million. For the three-year period from Fiscal Year 2015 through 2017, WVDA farms incurred a \$2.6 million total net operating loss. Many current WVDA operations are also not explicitly authorized in the governing statute, such as the purchase and resale of livestock not raised on WVDA farms to meet the needs of the state institutions. Further, rehabilitative labor opportunities for inmates or residents of state institutions are extremely limited, and WVDA has even expressed concerns over the consistency of using such labor. For the past two decades, no residents of health institutions and less than 1% of correctional inmates have worked on state-owned farms (currently without sufficient agreements and documentation in place to govern the use of such labor).

In comparison to other states in the country, the farm operations under WVDA and the purpose set forth by W.Va. Code are unique. The Post Audit Division conducted research and attempted to survey the other 49 states to determine how similar farm operations in those states were functioning and performing. There was little success in this endeavor for several reasons. Many states do not operate state-owned farms or have closed previous farming operations in their state. Those states that closed farms reported economic factors as the primary reason for doing so and that their state sold off and or leased the lands and farm equipment. Several states operate farms for research purposes in conjunction with other state government entities or universities. Other states offer co-op farming opportunities to private farmers, lease the lands to private farmers, or in some fashion utilize the private sector to some degree to share the financial burdens and support the operations of those farms. Few states reported operations similar to those of the WVDA. Those few who did have somewhat comparable operations utilized a far greater degree of inmate labor, had more

favorable farming conditions due to their geographic locations in terms of terrain and climate, and sold a greater volume of food commodities to the private sector without a requirement to produce solely for state institutions. These states also had not experienced decades of decline with their operations, decreased numbers of inmate laborers, and operating losses, unlike the farms currently under the purview of WVDA.

Based on this information, it is the Post Audit Division's conclusion that the management of institutional farms is **not** meeting the legislative intent of W.Va. Code §19-12A-5 by producing food products for state institutions in the most efficient manner. Rather, these operations appear to be producing food products for state institutions at a current average annual loss of \$878,000. Further, by not presenting the Legislature with the required annual reports detailing the revenues and expenditures associated with these farm operations, the Legislature is likely unaware of the repeated annual operating losses now totaling \$2.6 million over the past three fiscal years.

Based on the conclusions of the Post Audit Division's review of current WVDA farm operations, the Legislative Auditor makes the following recommendations:

- 1. The Legislative Auditor recommends that the Legislature consider modifying W.Va. Code §19-12A-5 to no longer require the Department of Agriculture to produce food commodities for state institutions, as well as modifying the requirement that those institutions purchase food commodities produced by the Department of Agriculture, which would allow the Department of Agriculture to eliminate the net operating losses that have amounted to approximately \$2.6 million from Fiscal Year 2015 through 2017.*
- 2. The Department of Agriculture should evaluate alternative uses for land, equipment, and other assets currently utilized for such farm operations that, at a minimum, will allow the Department of Agriculture to eliminate the net operating losses that have amounted to approximately \$2.6 million from Fiscal Year 2015 through 2017. Further, the WVDA should report to the Post Audits Subcommittee in November 2017 to (1) communicate the results of its evaluation of alternative uses for land, equipment, and other assets; (2) present its proposed plan to eliminate operating losses; and (3) present its proposed plans for moving forward in response to the issues identified in this report.*
- 3. The Legislative Auditor recommends that the Department of Agriculture comply with W.Va. Code §19-12A-6 and provide the Legislature its annual report of the department's farm operations for Fiscal Year 2017 that includes a listing of all receipts and expenditures related to such operations. Subsequently, this annual report should be provided to the Legislature each year the Department of Agriculture's farms remain in operation. Alternatively, the Department of Agriculture can report specifically the revenue and expenditures for the farm operations in the annual report that the Department already prepares, so long as the information provided in that report clearly states all revenues and expenditures related to farm operations separately of other financial data of the Department and meets the requirements set forth in W.Va. Code §19-12A-6.*

The Legislative Auditor makes the following recommendations should the Department of Agriculture choose to continue state-owned farm operations:

4. *The Legislative Auditor recommends the Legislature consider reviewing and amending the W.Va. Code sections governing these farm operations to reflect the current operations of the Department of Agriculture institutional farms and to clarify the intent of the Legislature in regard to the operation of those farms. Identified code sections that require such review and amendment include the following:*
 - *W.Va. Code §19-12A-6 – to determine if the statutory transfer from the Division of Corrections and the Department of Health and Human Resources is required each fiscal year, or if that requirement was only to be a one-time transfer in 1990.*
 - *W.Va. Code §19-12A-5(b) – to clarify whether the Department of Agriculture can purchase cattle from an outside vendor to be supplied to Division of Corrections and the Department of Health and Human Resources meat processors with an additional mark-up fee for costs incurred from delivery; and to clarify the sale of cattle raised on Department of Agriculture farms deemed excess to the open market, while at the same time engaging in the purchase and resale of cattle for state institutions.*
 - *W.Va. Code §19-12A-5(b) – to consider amending the “shall” provision requiring the purchase of food commodities from the Department of Agriculture in order to authorize the Division of Corrections and the Department of Health and Human Resources to purchase food commodities from a vendor of their choosing to allow for the most fiscally responsible method for those agencies to provide food to inmates and residents of facilities under their purview.*
 - *Additionally, all W.Va. Code sections that reference the abolished “Farm Management Commission” should be amended to state the “Commissioner of the Department of Agriculture” who was transferred all powers, duties, and responsibilities of the Farm Management Commission in W.Va. Code §19-12A-1a(a). Further, amendments should be made to any other sections of W.Va. Code governing the farm operations that the Legislature deems to require such revision in an effort to (1) address issues identified in this report; (2) reflect more accurately the current operations of the institutional farms; or (3) clarify the intent of the Legislature for the operation of those farms.*

5. *The Legislative Auditor recommends that the Department of Agriculture and Division of Corrections sign and document sufficient agreements to govern the labor of Division of Corrections inmates on state-owned farms.*

Appendices

Appendix A: Objectives, Scope, and Methodology

The Post Audit Division within the Office of the Legislative Auditor conducted this review as authorized by W.Va. Code §4-2-5, as amended.

Objectives

The objective of this review was to determine if the Department of Agriculture's management of institutional farms is meeting the legislative intent of WV Code §19-12A-5 by producing food products for state institutions in the most efficient manner. This objective also included determining if these efforts are the most cost effective to the State for meeting the food needs for state institutions who are required by statute to purchase from Agriculture, as well as, determining if the institutional farms are managed in an efficient manner that meets the agency's mission and minimizes the cost to the State for their continued operations.

Scope

The scope of this evaluation covers all aspects of state-owned farming operations for the period beginning Fiscal Year 2015 through Fiscal Year 2017, including, but not limited to, the following: financial performance, operating processes and procedures, sale processes and procedures, and institutional labor agreements.

Methodology

Post Audit Division staff gathered and analyzed several sources of information and assessed the sufficiency and appropriateness of the information used as evidence. This includes, but is not limited to, the following: examining current and past W.Va. Code sections related to state-owned farms; conducting interviews with agency staff; corresponding in writing with officials of the WVDA, DOC, and DHHR; reviewing revenues and expenditures made since Fiscal Year 2002 obtained through WVFIMS and wvOASIS, as well as provided by the agency; reviewing previous reports published by the Legislative Auditor; and surveying other states regarding state-owned farming operations in each. Testimonial evidence gathered through interviews with agency officials provided a greater level of understanding and clarification regarding certain issues. Additionally, such testimony confirmed the existence or non-existence of a condition and provided insight into the respective agency's position on an issue. Such testimonial evidence was confirmed by either written statements or the receipt of corroborating or physical evidence.

GAGAS Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B: Previous Reports by the Legislative Auditor

A Preliminary View of the Farm Management Commission (May 1994)

http://www.legis.state.wv.us/Joint/PERD/perdrep/FarmManagementComm_5_1994.pdf

Preliminary Performance Review: Marketing and Development Division of the Department of Agriculture (October 2002)

http://www.legis.state.wv.us/Joint/PERD/perdrep/Mark_Devel_Agr_10-02.pdf

Appendix C: Additional Data Tables

WVDA Farms Unspecified Personnel Costs: FY2015-2017

Full-time WVDA employees whose duties and responsibilities are shared across all WVDA farm operations paid from Fund 0131, Department of Agriculture Fund. WVDA asserted that these personnel costs are not included in the farm expenditures reported in wvOASIS.

Figure 10. Additional Farm Personnel Expenditures Not Charged to WVDA Farm Units- FY2015-2017

Additional Personnel Cost Not Charged Directly to Farms					
Position	Salary	Salary x 1.3*	2015	2016	2017
Farm Manager	\$50,500.00	\$65,650.00	(\$65,650.00)	(\$65,650.00)	(\$65,650.00)
Farm Supervisor	\$38,500.00	\$50,050.00	(\$50,050.00)	(\$50,050.00)	(\$50,050.00)
Office Assistant	\$33,752.00	\$43,877.60	(\$43,877.60)	(\$43,877.60)	(\$43,877.60)
Executive Assistant	\$44,004.00	\$57,205.20	(\$57,205.20)	(\$57,205.20)	(\$57,205.20)
Assistant Marketing and Development Director	\$56,700.00	\$73,710.00	(\$73,710.00)	(\$73,710.00)	(\$39,926.25)
Director of Eastern Operations	\$85,000.00	\$110,500.00	(\$110,500.00)	(\$110,500.00)	(\$59,854.17)
Totals			(\$400,992.80)	(\$400,992.80)	(\$316,563.22)

Data provided by WVDA. *Estimated Employer Benefit Cost of 30% added. Note: 2017 estimate reflects the January 2017 retirements of the Assistant Marketing and Development Director and Director of Eastern Operations, respectively.

Figure 11. Statutory Transfers as Percentage of Total Farm Revenues - FY 2015 - 2017

Statutory Transfers (Advance Payment from DOC & DHHR) as % of Total Revenue			
Fiscal Year	Statutory Transfer Total	Total Revenue	Statutory Transfer % of Total Revenue
2015	\$210,000	\$1,191,242	18%
2016	\$460,000	\$942,618	49%
2017	\$510,000	\$977,316	52%

Data provided by WVDA and obtained from wvOASIS

Figure 12. WVDA Farm Profit/(Loss) Analysis – Fiscal Years 2015 – 2017

Operating Profit/(Loss) by Farm/Division - FY2015-2017			
FY2015			
Farm/Division	Revenue	Expenditures	Profit/(Loss)
Huttonsville	\$774,309.39	(\$766,633.35)	\$7,676.04
McCausland	\$164,495.55	(\$166,849.80)	(\$2,354.25)
Pruntytown	\$388.89	(\$218,380.94)	(\$217,992.05)
Lakin	\$3,478.58	(\$244,607.95)	(\$241,129.37)
Sweet Springs	\$4,555.00	(\$78.08)	\$4,476.92
Equipment	\$244,014.33	(\$215,415.91)	\$28,598.42
Land/Administration Division		(\$45,887.24)	(\$45,887.24)
Total	\$1,191,241.74	(\$1,657,853.27)	(\$466,611.53)
Less Farm Personnel Paid From Fund 0131			(\$400,992.80)
Total Farm Operating Loss			(\$867,604.33)
FY2016			
Farm/Division	Revenue	Expenditures	Profit/(Loss)
Huttonsville	\$783,870.51	(\$946,715.62)	(\$162,845.11)
McCausland	\$0.00	(\$105,116.24)	(\$105,116.24)
Pruntytown	\$1,066.94	(\$258,864.55)	(\$257,797.61)
Lakin	\$110,710.82	(\$153,042.91)	(\$42,332.09)
Sweet Springs	\$4,555.00	(\$21.55)	\$4,533.45
Equipment	\$42,414.72	(\$130,800.00)	(\$88,385.28)
Land/Administration Division	\$0.00	(\$8,778.67)	(\$8,778.67)
Total	\$942,617.99	(\$1,603,339.54)	(\$660,721.55)
Less Farm Personnel Paid From Fund 0131			(\$400,992.80)
Total Farm Operating Loss			(\$1,061,714.35)
FY2017			
Farm/Division	Revenue	Expenditures	Profit/(Loss)
Huttonsville	\$841,366.41	(\$743,957.11)	\$97,409.30
McCausland	\$13,609.09	(\$144,945.04)	(\$131,335.95)
Pruntytown	\$21,208.00	(\$199,980.67)	(\$178,772.67)
Lakin	\$55,536.37	(\$163,469.43)	(\$107,933.06)
Sweet Springs	\$650.00	\$0.00	\$650.00
Equipment	\$44,946.44	(\$68,379.00)	(\$23,432.56)
Land/Administration Division	\$0.00	(\$14,443.56)	(\$14,443.56)
Total	\$977,316.31	(\$1,335,174.81)	(\$357,858.50)
Less Farm Personnel Paid From Fund 0131			(\$316,563.22)
Total Farm Operating Loss			(\$674,421.72)
Total Farm Operating Loss FY2015-2017			(\$2,603,740.40)

Data provided by WVDA and obtained from wvOASIS. Profit/(Loss) calculations performed by the Post Audit Division.

Figure 13. Farm Operating Fund (Fund 1412) Profit/(Loss) Analysis Fiscal Years 2002 – 2017

Farm Operating Fund (Fund 1412) Profit/(Loss) Analysis - Less Other Revenue Fiscal Years 2002 - 2017				
	2002	2003	2004	2005
Revenues	\$793,042.67	\$1,122,161.73	\$807,801.44	\$1,191,585.46
Expenditures*	(\$833,693.55)	(\$751,206.91)	(\$881,851.81)	(\$1,022,434.07)
Profit/(Loss)	(\$84,231.40)	\$324,075.01	(\$121,967.43)	\$69,555.62
Other Revenue - Timber Sales	\$139,097.31	\$477,382.00	\$9,938.76	\$311,203.00
Other Revenue - Lease Fees	\$9,851.76	\$11,345.00	\$7,062.00	\$113,032.75
Other Revenue - Right of Way Fees	\$6,195.00	\$6,282.25	\$6,444.95	\$6,075.52
Other Revenue - Royalties Oil/Gas	\$36,313.19	\$43,163.25	\$69,578.64	\$87,910.06
Profit/(Loss) Less "Other Revenues"	(\$275,688.66)	(\$214,097.49)	(\$214,991.78)	(\$448,665.71)
	2006	2007	2008	2009
Revenues	\$840,117.14	\$925,773.16	\$1,563,117.07	\$1,199,799.94
Expenditures*	(\$1,025,964.59)	(\$1,122,957.29)	(\$1,227,755.20)	(\$986,910.00)
Profit/(Loss)	(\$297,785.59)	(\$243,095.28)	\$275,758.88	\$32,374.25
Other Revenue - Timber Sales	(\$22,773.59)	\$0.00	\$315,715.00	\$254,263.00
Other Revenue - Lease Fees	\$58,118.00	\$12,365.00	\$25,285.00	\$15,385.00
Other Revenue - Right of Way Fees	\$6,862.40	\$7,067.51	\$6,831.77	\$7,496.41
Other Revenue - Royalties Oil/Gas	\$151,885.54	\$141,317.68	\$131,556.04	\$127,453.82
Profit/(Loss) Less "Other Revenues"	(\$491,877.94)	(\$403,845.47)	(\$203,628.93)	(\$372,223.98)
	2010	2011	2012	2013
Revenues	\$742,666.79	\$857,065.54	\$2,707,850.57	\$974,401.42
Expenditures*	(\$1,105,781.80)	(\$921,293.38)	(\$1,328,459.77)	(\$1,348,011.14)
Profit/(Loss)	(\$428,572.85)	(\$101,645.79)	\$1,321,855.16	(\$532,673.84)
Other Revenue - Timber Sales	\$2,038.37	\$45,000.00	\$45,000.00	\$2,529.60
Other Revenue - Lease Fees	\$21,418.37	\$24,702.54	\$1,840,010.30	\$31,135.87
Other Revenue - Right of Way Fees	\$10,220.56	\$14,447.41	\$14,660.20	\$14,658.68
Other Revenue - Royalties Oil/Gas	\$67,846.34	\$60,048.67	\$52,527.33	\$110,284.42
Profit/(Loss) Less "Other Revenues"	(\$530,096.49)	(\$245,844.41)	(\$630,342.67)	(\$691,282.41)
	2014	2015	2016	2017
Revenues	\$1,018,178.83	\$1,216,198.13	\$1,776,299.35	\$1,666,913.76
Expenditures*	(\$1,100,693.16)	(\$1,536,187.34)	(\$1,702,240.44)	(\$1,642,178.83)
Profit/(Loss)	(\$153,756.07)	(\$319,989.21)	\$74,058.92	\$24,734.93
Other Revenue - Timber Sales	\$0.00	\$0.00	\$608,707.00	\$9,396.05
Other Revenue - Lease Fees	\$11,408.37	\$15,441.30	\$12,938.04	\$13,807.37
Other Revenue - Right of Way Fees	\$14,686.39	\$14,787.01	\$16,088.93	\$15,214.61
Other Revenue - Royalties Oil/Gas	\$41,269.60	\$101,778.80	\$373,117.82	\$707,125.20
Profit/(Loss) Less "Other Revenues"	(\$221,120.43)	(\$451,996.32)	(\$936,792.88)	(\$720,808.30)
Totals Fiscal Years 2002 - 2017				
Revenues	\$19,402,973.00			
Expenditures*	(\$19,564,277.70)			
Profit/(Loss)	(\$161,304.70)			
Other Revenue - Timber Sales	\$2,197,496.50			
Other Revenue - Lease Fees	\$2,223,306.67			
Other Revenue - Right of Way Fees	\$168,019.60			
Other Revenue - Royalties Oil/Gas	\$2,303,176.40			
Profit/(Loss) Less "Other Revenues"	(\$7,053,303.87)			

Revenue and Expenditure Data for FY 2002-2014 obtained from WVFIMS and from wvOASIS for FY 2015-2017. "Other Revenue" amounts provided by WVDA and obtained from WVFIMS and wvOASIS. * Includes 13th Month FY Carryover Expenditures, Does Not Include Farm Personnel Expenses Paid from Fund 0131 not directly charged to farm units.

**Appendix D: Letter to Post Audit Division
Dated June 16, 2017, from DMAPS Cabinet
Secretary Jeff Sandy**



State of West Virginia
**OFFICE OF THE SECRETARY
DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY**

Building 1, Suite W-400
1900 Kanawha Blvd., East
Charleston, West Virginia 25305
Telephone: (304) 558-2930
Facsimile: (304) 558-6221

**JIM JUSTICE
GOVERNOR**

**JEFF S. SANDY CFE, CAMS
CABINET SECRETARY**

**THOMAS L. KIRK
DEPUTY SECRETARY**

Friday, June 16, 2017

To: Denny Rhodes, Director, Office of the Legislative Auditor
From: Jeff S. Sandy, CFE, CAMS, Cabinet Secretary 
Re: Department of Agriculture Meat Contract with Division of Corrections

This letter is in response to your request for information on May, 30th, 2017, and our meeting on June 12, 2017.

My position as Cabinet Secretary is twofold. First, I must make Military Affairs and Public Safety as efficient as possible. Secondly, I must ensure that we are performing our duties ethically and professionally. Therefore, I will address your inquiry as best possible.

I have been advised by the senior staff of the Division of Corrections that the Department of Agriculture meat contract with Division of Corrections was established in the 1980's. That due to fiscal constraints, that the Department of Agriculture encountered in the 1980's, the Department of Agriculture requested and received payment for meat in advance. No files have been located to support the above information.

It appears that during the legislative session of 1990, that State Code §19-12A-5(b) was enacted into law. The law states that *"the Division of Corrections shall purchase, a proportionate amount of these products based on the dietary needs of each institution."*

§19-12A-6 states *"On the first day of July, one thousand nine hundred and ninety (1990), ... the Division of Corrections shall each transfer, by interdepartmental transfer, the sum of two hundred thousand dollars to the Farm Management Commission (now the Department of Agriculture).* Despite this code reading that this transfer was a one-time requirement, subsequent Budget Bills throughout the 1990's all had the requirement to transfer \$200,000 at the beginning of each fiscal year. Further research revealed that by 2004 this number was

changed to \$300,000 (some budget bills available on the WV Legislature Website seem to be incomplete, so this change could have happened earlier).

The advance payments each year is then offset with purchases of meat over the fiscal year, with deductions taken from this credit.

I have been advised that over the years that Division of Corrections has experienced issues concerning the beef. Those issues are as follows:

- The Division of Corrections food service contractor needed hamburger meat.
 - The supplier would advise that no hamburger cows were available, only steak cows.
 - Thus, Division of Corrections would have to pay a higher rate for the meat received.
- Quality of the meat has been an issue for over a decade. However, the Division of Corrections does state that the quality of the meat has increased some over the past two years, but not to the level of industry standards.
- The yield of meat from the cows has also improved recently, but still is not up to the industry standard.
 - The issue concerns the day to day live weight price variance of the cow
 - This makes it difficult for Division of Corrections to stay within their budget since they do not know what they will be paying for the meat day to day.
 - The meat weight received from the butcher, does not meet the industry standard based on the weight of the cow prior to slaughter.
- Division of Corrections has heard that a percentage of the cows that are taken to slaughter were purchased at out of state auctions.
- The \$300,000.00 cost of the meat is not the complete picture. In addition, Division of Corrections pays \$100,000.00 per year to butcher the cows.
- Per the Division of Corrections food service contractor, they could purchase higher quality meat and save the State of West Virginia \$130,000.00 per year.
- Shipments of meat have been received that were not useable for human use.

Division of Corrections is agreeable to be a beef market participant with the Department of Agriculture, and is enthusiastic about promoting business within the State of West Virginia, provided that the parties enter into mutual discussion in regard to changing the “status quo” of the current arrangement and situation. In the spirit of promotion of the beef industry, and employing West Virginians, Division of Corrections would propose that the situation be more controlled. Division of Corrections would like to pay for services rendered at the time of rendering instead of pre-paying for commodities, and to pay a fair market rate for the beef. It is essential in these tight budget times to be able to adequately predict costs and yield of the beef so that responsible use of taxpayer funds can be more easily monitored and accomplished.

Division of Corrections wants to be a good business partner with the Department of Agriculture, and in the interest of best serving the taxpayers of West Virginia. We believe that it is best to pay for services at the time of rendering, and to attempt to negotiate a pricing that is a fair market rate that is more constant throughout the fiscal year. Finally, we request the right of refusal if the quality is not meeting industry standards.

While we are not willing to commit to expanding the beef portion of this partnership until these issues can be rectified to mutual satisfaction, Division of Corrections is, however, willing to expand the produce production at the facilities and enter into more substantial agreements with Department of Agriculture in this area.

In ending, we want to advise Legislative Audit, not as an excuse, but as a concern, that the past two Cabinet Secretaries and their senior office staff had no knowledge of these deficiencies in the meat supplier.

If you have additional questions, please do not hesitate to contact me 24/7.

**Appendix E: Letter to Post Audit Division
Dated September 11, 2017 from DMAPS
Cabinet Secretary Jeff Sandy**



State of West Virginia
**OFFICE OF THE SECRETARY
DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY**

Building 1, Suite W-400
1900 Kanawha Blvd., East
Charleston, West Virginia 25305
Telephone: (304) 558-2930
Facsimile: (304) 558-6221

**JIM JUSTICE
GOVERNOR**

**JEFF S. SANDY CFE, CAMS
CABINET SECRETARY**

**THOMAS L. KIRK
DEPUTY SECRETARY**

Date: Monday, September 11, 2017
To: Denny Rhodes, Director
From: Jeff S. Sandy, CFE, CAMS, Cabinet Secretary 
Re: Department of Agriculture Meat Contract with Division of Corrections

I have reviewed your audit report and concur with its detailed analysis of the meat contract between the Department of Agriculture and the Division of Corrections.

The Department of Military Affairs and Public Safety supports your audit report and the fact that the report brings transparency to government inefficiencies to the citizens of West Virginia, no matter how disconcerting those facts disclose.

The audit report also brings to the forefront that all contracts, both internal and external need to be closely analyzed to ascertain that the citizens of West Virginia tax dollars are being used wisely.

I personally will attend the September 17th, 2017 "Post Audits Subcommittee" and address any additional questions and concerns.



West Virginia Department of Agriculture

Kent A. Leonhardt, Commissioner
Joseph L. Hatton, Deputy Commissioner

September 14, 2017

Denny Rhodes, Director
West Virginia Legislative Post Audit Division
1900 Kanawha Blvd. East, Rm W-329
Charleston, WV 25305-0610

Dear Mr. Rhodes:

Please find below the West Virginia Department of Agriculture's (WVDA) response to the West Virginia Legislative Post Audit Division's draft report on WVDA's state-owned farms. Please include our written response as part of your report.

Beginning on page 29 of the report:

1. The Legislative Auditor recommends that the Legislature consider modifying W.Va. Code §19-12A-5 to no longer require the Department of Agriculture to produce food commodities for state institutions, as well as modifying the requirement that those institutions purchase food commodities produced by the Department of Agriculture, which would allow the Department of Agriculture to eliminate the net operating losses that have amounted to approximately \$2.6 million from Fiscal Year 2015 through 2017.

Response: The West Virginia Department of Agriculture (WVDA) concurs with the recommendation to modify W.Va. Code to release the respective state agencies from these obligations. This will allow the institutions and the WVDA to more effectively manage their operations resulting in a cost savings to the state. WVDA would encourage the affected institutions to purchase their food commodities from in-state producers and vendors that support West Virginia agriculture businesses and tax receipts. It is worth noting, the practice of WVDA purchasing cull animals at local livestock markets does provide a valuable service to the industry by creating an opportunity for farmers and the markets to generate income.

The WVDA has been purchasing cattle based on direction from The West Virginia Department of Corrections (DOC) and then reselling the live animals to the institutions. The processing of the animals is a contractual agreement solely between the DOC and their respective processors. The quality of the meat the DOC is receiving is a function of the specifications DOC provides to their processors. The WVDA understands some of the meat is being processed through a meat processing training program that is underway in at least one DOC facility. Such a program provides a cost savings for DOC as well as an opportunity for inmates to learn a skill to prepare them for gainful employment when they re-enter society.

A problem we have found is that on several occasions, the WVDA has been sending a driver, truck and trailer across the state to deliver one to two animals to the DOC processor. WVDA agrees that this is not an efficient business model. The WVDA believes this model might work if the institutions would order larger quantities of meat protein products at one time. Under the current model, WVDA is subsidizing DOC and Department of Health and Human Resources (DHHR) food services. WVDA would prefer to obtain the meat protein specifications and the costs to obtain the protein that DOC has referenced in their letter. This information could prove to be useful for WVDA to consider as we develop a business plan for future utilization of the farms. Because WVDA is still in the evaluation and planning phase, we consider all options open. The WVDA would like to explore the potential and feasibility of continuing to provide the supply through a combination of production on the WVDA farms and working with local farmers to fill the orders, or offer other suggestions on supplying the meat protein. This arrangement would provide a win-win solution for the state by optimizing utilization of valuable WVDA resources and creating growth opportunities for the state's agriculture industry, while providing a viable option for DOC and DHHR.

2. The Department of Agriculture should evaluate alternative uses for land, equipment, and other assets currently utilized for such farm operations that, at a minimum, will allow the Department of Agriculture to eliminate the net operating losses that have amounted to approximately \$2.6 million from Fiscal Year 2015 through 2017. Further, the WVDA should report to the Post Audits Subcommittee in November 2017 to (1) communicate the results of its evaluation of alternative uses for land, equipment, and other assets; (2) present its proposed plan to eliminate operating losses; and (3) present its proposed plans for moving forward in response to the issues identified in this report.

Response: The WVDA believes if the Legislature changes the code to remove restrictions on the farm operations, we can repurpose the farms to provide a revenue stream for farm operations and food security to the citizens of West Virginia. The WVDA agrees that an evaluation of the farm operations, land management, equipment utilization and other assets is necessary. In fact, the WVDA is currently in the evaluation and planning phase for the farms. Despite work already being done, we believe a November deadline for planning is unattainable. This is a complex issue that requires various levels of external assistance of planning in conjunction with WVDA staff. For example, WVDA staff has reached out to the United States Department of Agriculture (USDA) for assistance in developing conservation plans for the farms.

The WVDA believes there is great potential for the farm assets to benefit the West Virginia agriculture industry and the public. Areas of expansion being considered are working with land grant universities to expand research on animal disease prevalence, treatment and control of disease practices, as well as research on invasive species, pest control techniques, wildlife and recreation opportunities. WVDA proposes to have a business plan completed by Spring 2018. This would provide sufficient time to develop a well-thought-out plan which would increase the probability for success.

Equipment has been inventoried and plans for utilization or disposal are being implemented. Excess equipment will be repurposed in support of agriculture activities or released to Surplus Property as appropriate. It is worth noting, the farms provide food security for West Virginia in times of crisis and are a part of homeland security response plans for when citizens of West Virginia and the United States are

displaced due to natural or man-made disasters. Questions to be considered: What if we had a large animal disease outbreak? How would we dispose of the diseased carcasses? What if we have a national security event to our east? These farms can play a vital role in staging equipment and feeding displaced/stranded citizens. Our government cannot prevent natural disasters, but my staff and I are committed to ensuring the WVDA is prepared to aid and assist in such cases.

3. The Legislative Auditor recommends that the Department of Agriculture comply with W.Va. Code §19-12A-6 and provide the Legislature its annual report of the department's farm operations for Fiscal Year 2017 that includes a listing of all receipts and expenditures related to such operations. Subsequently, this annual report should be provided to the Legislature each year the Department of Agriculture's farms remain in operation.

Response: The Department already provides the Legislature with an annual report; therefore, it does not seem prudent to produce duplicative reports. Additionally, the language in W.Va. Code requiring additional reports pre-dates centralized financial reporting. Today, all financial data for the WVDA resides in the wvOASIS system and is readily accessible to the Legislature.

The Legislative Auditor makes the following recommendations should the Department of Agriculture choose to continue state-owned farm operations:

4. The Legislative Auditor recommends the Legislature consider reviewing and amending the W.Va. Code sections governing these farm operations to reflect the current operations of the Department of Agriculture institutional farms and to clarify the intent of the Legislature in regard to the operation of those farms. Identified code sections that require such review and amendment include the following:

☐ **W.Va. Code §19-12A-6 – to determine if the statutory transfer from the Division of Corrections and the Department of Health and Human Resources is required each fiscal year, or if that requirement was only to be a one-time transfer in 1990.**

☐ **W.Va. Code §19-12A-5(b) – to clarify whether the Department of Agriculture can purchase cattle from an outside vendor to be supplied to Division of Corrections and the Department of Health and Human Resources meat processors with an additional mark-up fee for costs incurred from delivery; and to clarify the sale of cattle raised on Department of Agriculture farms deemed excess to the open market, while at the same time engaging in the purchase and resale of cattle for state institutions.**

☐ **W.Va. Code §19-12A-5(b) – to consider amending the "shall" provision requiring the purchase of food commodities from the Department of Agriculture in order to authorize the Division of Corrections and the Department of Health and Human Resources to purchase food commodities from a vendor of their choosing to allow for the most fiscally responsible method for those agencies to provide food to inmates and residents of facilities under their purview.**

☒ Additionally, all W.Va. Code sections that reference the abolished “Farm Management Commission” should be amended to state the “Commissioner of the Department of Agriculture” who was transferred all powers, duties, and responsibilities of the Farm Management Commission in W.Va. Code §19-12A-1a(a). Further, amendments should be made to any other sections of W.Va. Code governing the farm operations that the Legislature deems to require such revision in an effort to (1) address issues identified in this report; (2) reflect more accurately the current operations of the institutional farms; or (3) clarify the intent of the Legislature for the operation of those farms.

Response: The WVDA concurs with amending W.Va. Code to reflect current and planned operations in order to provide the Commissioner with the flexibility necessary to implement plans that will contribute to the WVDA becoming self-sufficient and independent of general revenue appropriations. WVDA’s long-term goals also include a plan to reinvest monies generated in excess of funds required to cover operating expense into the WVDA’s aging facilities, specifically the laboratories. The condition of WVDA’s labs are unacceptable and inadequate to maintain the credentialing and certifications held currently by the lab operations. The Department has exceptionally qualified staff who are in need of modernized laboratory facilities to continue protecting our nation and state’s food supply.

5. The Legislative Auditor recommends that the Department of Agriculture and Division of Corrections sign and document sufficient agreements to govern the labor of Division of Corrections inmates on state-owned farms.

Response: The WVDA concurs with developing an agreement with DOC that would define responsibilities and the benefits to both parties. WVDA believes agriculture can be an important part of inmates’ rehabilitation process by providing the necessary training to enable them to grow their own food and equip them with the skill sets to become contributing members of society.

Representatives from my office will be at the Post Audit Subcommittee on September 17, 2017, at 1:00 p.m. We appreciate your assistance in reviewing the WVDA farms and look forward to further discussion on Sunday.

Sincerely,



Kent A. Leonhardt
Commissioner



POST AUDITS SUBCOMMITTEE
MEMBERS

SENATE MEMBERS

President, Mitch Carmichael
Ed Gauch
Roman Prezioso

HOUSE MEMBERS

Tim Armstead, Speaker
Timothy Miley
Eric E. Nelson Jr.



JOINT COMMITTEE ON GOVERNMENT AND FINANCE
WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR
- POST AUDIT DIVISION -

Legislative Auditor: Aaron Allred
Post Audit Director: Denny Rhodes

Room 329 W, Building 1
1900 Kanawha Boulevard East
Charleston, West Virginia 25305
Phone: (304) 347-4880