



December 2018  
PE 18-09-615

**PERFORMANCE REVIEW**  
**DEPARTMENT OF COMMERCE**  
**OFFICE OF MINERS' HEALTH, SAFETY, AND TRAINING**

**AUDIT OVERVIEW**

The West Virginia Office of Miners' Health, Safety, and Training Has Accumulated Fund Balances That Well Exceed Operating Expenses and Has Become an Uneconomical Use of State Resources.



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*Note: On Monday, February 6, 2017, the Legislative Manager/Legislative Auditor's wife, Elizabeth Summit, began employment as the Governor's Deputy Chief Counsel. Most or all 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 the audit team have any communications with her regarding the report. As Deputy Chief Counsel, the Legislative Auditor's wife is not in a policy making position within the Executive Branch. Therefore, the Performance Evaluation and Research Division does not believe there are any threats to independence with regard to this report as defined in A3.06.a and A3.06.b of the Generally Accepted Government Auditing Standards. Furthermore, the Legislative Auditor has instructed the Director of Performance Evaluation and Research Division to document and discuss any issues he believes are a threat to the division's independence with the President of the Senate and the Speaker of the House due to Ms. Summit's position.*



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## EXECUTIVE SUMMARY

The Legislative Auditor conducted an Agency Review of the Department of Commerce (DOC) pursuant to W.Va. Code §4-10-8(b)(2). As part of this review, a performance audit was conducted on the Office of Miners' Health, Safety, and Training (MHST) within the DOC. The purpose of MHST, as established in W. Va. Code §22A-1-1(b), is the execution and enforcement of the state's mine health and safety laws. The objective of this audit was to determine what is a prudent level of cash balance for the MHST's special revenue funds. The highlights of this review are discussed below.

### Frequently Used Acronyms in this Report

MHST:	Office of Miners' Health, Safety, and Training
PERD:	Performance Evaluation and Research Division

### Report Highlights

#### **Issue 1: The West Virginia Office of Miners' Health, Safety, and Training Has Accumulated Fund Balances That Well Exceed Operating Expenses and Has Become an Uneconomical Use of State Resources.**

- Since 2007, the combined total balance of the agency's funds has accumulated to over \$12 million. While the MHST gave several reasons for the growing cash balances, these funds have accumulated well above what is needed even for contingency purposes.
- The Legislature has created mechanisms for some state agencies to transfer excess balances to the state general fund for prudent use of the State's resources.
- Based on the historical spending of the special revenue funds, PERD estimates the excess cash balance to be approximately \$6.7 million higher than what is needed for day-to-day operations and contingencies.

### Recommendation

1. *The Legislative Auditor recommends the Legislature consider establishing a mechanism that would transfer a portion of the MHST's funds to the State General Revenue Fund that is in excess of what the agency needs for operations.*

### PERD's Response to the Agency's Written Response.

On October 31, 2018, PERD received a written response from the Director of the Office of Miners' Health, Safety, and Training, which can be found in Appendix F. Selected areas are discussed below:

**Agency Response:** *“During meetings and conversations with PERD staff agency representatives laid out cost effective savings the agency has pursued regarding its state funds and resources which reflects the*

*agency as good stewards and have made economically sound decisions... On the other hand, the agency has assumed more mandated responsibilities, because of our surplus of funds we were able to immediately implement these without the request of additional funding.”*

**PERD Response:** PERD can confirm that the agency has implemented cost savings and has unfunded mandates. However, these examples underscores PERD’s recommendation to transfer the excess cash balance since they reflect the agency’s ability to fund these additional initiatives and still accumulate a cash balance beyond what is needed for day-to-day operations.

**Agency Response:** *“The agency is not opposed to working with the Legislature to address the excess funds and would like to make the following proposals for the use of some of the excess funds.*

- *With the opioid/drug crisis that the mining industry and the state faces the agency would be willing to help fund a “free” rehabilitation facility for individuals whose certifications have been suspended for failing drug screenings and have lost their employment and cannot afford to pay for rehabilitation. The funding for a facility of this nature would be beneficial to the mining industry, the miner, his family, his community and for the state. There is nothing available “free” of cost to an individual who has an addiction and therefore can not receive the help he/she would need to overcome and survive.*
- *From the recommendations of the performance review relating to accident and injuries, the agency would like to propose the creation of a “Safety Analyst” position with the agency. This person would be responsible for review of data and mines and determine trends and make recommendations to the agency for the safety of persons employed at operations who have a trend or history of repeating injuries and accidents.*
- *Along with that, partner with Marshall University and/or WVU to identify solutions to mitigate which factor is driving the increasing injury rates.”*

**PERD Response:** The Legislative Auditor has not analyzed the proposals highlighted in the agency response, and, consequently, has no opinion on the merits. It is the Legislative Auditor’s opinion that using the excess funds for such projects is ultimately the decision of the Legislature.



# ISSUE 1

## The West Virginia Office of Miners’ Health, Safety, and Training Has Accumulated Fund Balances That Well Exceed Operating Expenses and Has Become an Uneconomical Use of State Resources.

### Issue Summary

The West Virginia Office of Miners’ Health, Safety, and Training (MHST) has multiple funds to receive state appropriations, special revenue and federal grants. Table 1 shows that since 2007, the combined total balance of the agency’s funds has accumulated to over \$12 million. The Legislature provides an appropriation that pays for most of the agency’s operating expenses, and other revenues exceed the balance of expenses. Although West Virginia Code authorizes the agency to collect special revenue from administering tests, issuing permits and assessing penalties, the law does not specify the use of special revenues. Consequently, these funds have accumulated well above what is needed even for contingency purposes. The Legislature has created mechanisms for some state agencies to have excess balances transfer to the state general fund for prudent use of the State’s resources. **Given the need for prudent management of the State’s finances, the Legislature should consider creating a mechanism to address the excess funds held by the MHST.**

*Given the need for prudent management of the State’s finances, the Legislature should consider creating a mechanism to address the excess funds held by the MHST.*

<b>Fiscal Year</b>	<b>General Fund Appropriation</b>	<b>Special Revenue</b>	<b>Federal Revenue</b>	<b>Total Revenue</b>	<b>Total Disbursements</b>	<b>Total Cash Balance</b>
2007	\$6.3	\$3.0	\$0.6	\$9.9	\$10.2	\$1.0
2008	\$10.1	\$3.4	\$0.4	\$13.9	\$11.9	\$3.0
2009	\$10.7	\$4.6	\$0.6	\$15.9	\$12.4	\$6.3
2010	\$10.7	\$3.8	\$0.6	\$15.1	\$12.6	\$8.7
2011	\$10.2	\$4.1	\$0.6	\$14.9	\$13.4	\$10.2
2012	\$12.6	\$4.4	\$0.6	\$17.7	\$16.7	\$11.2
2013	\$12.8	\$4.4	\$0.6	\$17.7	\$15.3	\$13.6
2014	\$12.7	\$2.8	\$0.2	\$15.7	\$14.3	\$15.0
2015	\$12.1	\$2.3	\$0.6	\$14.9	\$14.4	\$15.4
2016	\$10.9	\$1.7	\$0.5	\$13.1	\$13.2	\$15.4
2017	\$9.4	\$1.4	\$0.5	\$11.3	\$14.5	\$12.2

*Sources: Joint Committee on Government and Finance Budget and Fiscal Affairs Division reports, and WV OASIS.*

## The MHST's Excess Balance Is Not Committed to Any Specific Purpose or Need.

The MHST receives funds from state appropriations, test fees, penalty assessments, federal grants, and operating permits. The three largest sources of funding are state appropriations, penalty assessments, and federal grants. The MHST's cash balances grew substantially from 2007 through 2017. As previously seen in Table 1, the growth is primarily attributable to revenues exceeding what is needed for operations. In fact, except for 2007, 2016 and 2017, revenues exceeded disbursements in every other year. The growth in the combined total balance has slowed since FY 2016 when the Legislature reduced the agency's appropriations.

PERD discussed the excess cash balances with MHST officials to identify why the balances have grown substantially over the years and does the excess have a set purpose or need. According to the MHST, the excess balance is necessary for:

- 1) matching federal funds,
- 2) responding to disasters,
- 3) purchasing safety equipment, and
- 4) conducting investigations.

However, PERD finds that these expenditures are incurred in the normal course of business. For example, the agency does not need to maintain significant cash reserves for matching federal funds. Rather, matching funds are those spent by the agency for the purposes associated with the federal grant.

Moreover, since the MHST stated that the reserve funds are needed for mine rescue activities and investigations, PERD reviewed expenditures following the Upper Big Branch<sup>1</sup> (UBB) mine disaster. PERD found that the MHST's special revenue funds' disbursements increased from \$2,251,813 in FY 2010, the year in which the UBB mine disaster occurred, to \$3,409,106 in FY 2011. However, most of the \$1,157,293 increase was to purchase mobile mine lab vehicles totaling \$820,503, which was not to address the mine disaster. In FY 2012, the MHST's special revenue funds' disbursements increased again to \$4,345,522, which represented a \$2,093,709 increase from FY 2010. However, of the \$2,093,709 increase, the MHST's purchase of the office building that currently serves as its headquarters accounts for approximately \$2 million.

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*The MHST's cash balances grew substantially from 2007 through 2017.*

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*Except for 2007, 2016 and 2017, revenues exceeded disbursements in every other year.*

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<sup>1</sup> The UBB disaster, the worst mine disaster since the 1968 Farmington mine explosion, occurred on April 5, 2010, when 29 miners died.

While the MHST's response and subsequent investigation of the UBB mine disaster resulted in an increase in spending, one-time vehicle and building purchases constituted the clear majority of the MHST's increased disbursements out of its special revenue funds. However, despite the increase in spending, overall the combined total fund balances continued to increase until 2017, when a one-time cash transfer of \$2 million occurred.

The Legislative Auditor is concerned that there is no specific statutory language on the use of these excess funds. For example, *W. Va. Code §22A-1-4(b)(14)* authorizes the agency to impose reasonable fees on applicants taking training tests, but it does not specify how the special revenue from administering tests can be used. Similarly, *W. Va. Code §22A-1-21(g)* creates the Special Health, Safety and Training Fund which receives all civil penalty assessments. However, the *Code* does not limit spending to any one purpose, but states “*the fund shall be used by the director...for the administration of this chapter.*”

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*The overall cash balance for the penalty assessment fund has, until 2016, grown annually.*

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### **The MHST Is Permitted to Retain Penalties Assessed Against Mine Operators and Miners.**

Penalty assessments, the second largest source of revenue and largest source of special revenue for MHST, are composed of fines issued against mine operators and miners. However, the revenue declined as a percent of revenue from 2007 to 2015. Despite the decline, as shown in Table 2, the overall cash balance for the penalty assessment fund has, until 2016, grown annually.

**Table 2**  
**Penalty Assessment Fund**  
**Revenues, Disbursements, and Cash Balances**  
**FY 2007 through FY 2017**

Fiscal Year	Beg. Cash Balance	Penalty Assessment Revenue	Disbursements	Ending Cash Balance	Year-Over-Year Change
2007	\$1,422,224	\$2,490,864	\$3,190,890	\$722,199	
2008	\$906,304	\$2,890,923	\$1,361,831	\$2,435,396	237%
2009	\$2,762,665	\$3,972,564	\$1,536,702	\$5,198,527	113%
2010	\$5,471,217	\$3,320,667	\$1,486,499	\$7,305,385	41%
2011	\$7,527,174	\$3,427,555	\$2,635,027	\$8,319,702	14%
2012	\$8,562,722	\$3,832,132	\$3,860,136	\$8,534,718	3%
2013	\$8,611,183	\$3,868,073	\$1,923,268	\$10,555,988	24%
2014	\$10,555,988	\$2,423,253	\$1,305,210	\$11,674,031	11%
2015	\$11,674,009	\$1,890,992	\$1,664,267	\$11,897,379	2%
2016	\$11,900,734	\$1,462,779	\$1,637,145	\$11,726,368	(1%)
2017	\$11,726,368	\$1,146,624	\$3,893,571	\$8,979,420	(23%)

Source: Digest of Revenue Sources in West Virginia 2017

Note: Revenues and disbursements reflect in-year spending and receipts of the Penalty Assessment Fund only.

In 2016, the MHST's expenditures in the Special Health, Safety, and Training Fund exceeded revenues for the first time since 2012. In addition, by the end of FY 2017, the fund balance dropped to \$8.9 million. In addition, revenue has declined from a high of \$3.9 million in 2009 to \$1.1 million in 2017. This decline is primarily due to a decline in the overall number of mine operators and miners and, consequently, fewer ongoing operations subject to inspection. However, it should be noted the substantial drop in 2017 is primarily attributable to a one-time \$2 million legislatively mandated transfer from the MHST's Special Health, Safety, and Training Fund to the Department of Health and Human Resources, Division of Human Services – Medical Services Trust Fund.

*In 2016, the MHST's expenditures in the Special Health, Safety, and Training Fund exceeded revenues for the first time since 2012.*

Since there is no statutory language on how to use the funds, the MHST may: 1) spend the funds as the agency believes necessary and 2) accumulate substantial cash balances. Other regulatory entities, such as the regulatory boards, the Division of Air Quality and the Office of Oil and Gas within the Department of Environmental Protection deposit penalty assessments into the General Revenue fund. Moreover, according to *W. Va. Code §60-3-17*, the West Virginia Alcohol Beverage Control Commission is required to transfer to the General Revenue Fund all receipts "in excess of the requirements of the operating fund...", while

W.Va. Code §60-3-18 states that “all moneys collected by the commissioner shall be credited to the operating fund until that fund reaches an amount sufficient for the current and routine requirements of the office of the West Virginia alcohol beverage control commissioner...” **Given that other agencies may not retain funds that are either penalties or exceed what is needed for operations, the Legislative Auditor recommends the Legislature consider establishing a mechanism requiring the MHST to transfer funds in excess of what is needed for operations to the General Revenue Fund.**

*The Legislative Auditor recommends the Legislature consider establishing a mechanism requiring the MHST to transfer funds in excess of what is needed for operations to the General Revenue Fund.*

**MHST’s Other Special Revenue Funds Are Accumulating Cash Balances in Excess of What Is Needed for Operations.**

In addition to the increasing balance in the Special Health, Safety, and Training Fund, MHST’s other special revenue funds maintain substantial cash balances as well. As shown in Tables 3 and 4, the Test Fees Fund and the Operating Permit Fee Fund have balances that have grown annually since 2007.

<b>Fiscal Year</b>	<b>Beg. Cash Balance</b>	<b>Test Fee Revenue</b>	<b>Disbursements</b>	<b>Ending Cash Balance</b>	<b>Year-Over-Year Change</b>
2007	\$62,585	\$234,798	\$204,624	\$92,759	
2008	\$92,759	\$260,367	\$195,114	\$158,012	70%
2009	\$158,012	\$393,487	\$151,336	\$400,163	153%
2010	\$400,163	\$266,283	\$150,126	\$516,320	29%
2011	\$516,320	\$420,378	\$187,623	\$749,075	45%
2012	\$749,075	\$322,040	\$153,026	\$918,089	23%
2013	\$918,089	\$252,253	\$144,511	\$1,025,831	12%
2014	\$1,025,831	\$186,906	\$113,081	\$1,099,656	7%
2015	\$1,099,656	\$156,752	\$161,838	\$1,094,570	0%
2016	\$1,094,570	\$81,632	\$80,533	\$1,095,669	0%
2017	\$1,095,669	\$181,963	\$136,889	\$1,140,743	4%

*Source: Digest of Revenue Sources in West Virginia -2017*  
*Note: Revenues and disbursements reflect in-year spending and receipts of the Test Fee Fund only.*

**Table 4**  
**Operating Permit Fee Fund Revenues, Disbursements, and Cash Balances**  
**FY 2007 through FY 2017**

<b>Fiscal Year</b>	<b>Beg. Cash Balance</b>	<b>Operating Permit Fee Revenue</b>	<b>Disbursements</b>	<b>Ending Cash Balance</b>	<b>Year-Over-Year Change</b>
2007	\$19,743	\$275,707	\$79,113	\$216,337	
2008	\$216,337	\$236,750	\$20,173	\$432,914	100%
2009	\$432,914	\$250,370	\$21,465	\$661,819	53%
2010	\$661,819	\$232,473	\$639	\$893,652	35%
2011	\$893,652	\$244,905	\$0	\$1,137,557	27%
2012	\$1,138,557	\$282,060	\$0	\$1,420,618	25%
2013	\$1,420,618	\$236,235	\$289,374	\$1,367,478	(4%)
2014	\$1,367,478	\$219,522	\$4,335	\$1,582,665	16%
2015	\$1,582,665	\$210,431	\$8,540	\$1,784,556	13%
2016	\$1,784,556	\$183,624	\$94,058	\$1,874,122	5%
2017	\$1,874,122	\$87,008	\$398,459	\$1,562,670	(17%)

Source: Digest of Revenue Sources in West Virginia -2017

Note: Revenues and disbursements reflect in-year spending and receipts of the Operating Permit Fee Fund only.

It should be noted that WV Code does not specify a purpose for either fund beyond the administration of Chapter 22A. Moreover, statute does not specifically authorize the Test Fees Fund. Rather, *W. Va. Code §22A-1-4(b)(14)* simply authorizes the director to “impose reasonable fees upon applicants taking tests administered pursuant to the requirements of this chapter.” However, the accumulation of the cash balance implies the fees charged may not be reasonable when compared to the expense of test administration.

### **It Is Important for MHST to Maintain a Cash Balance for Emergencies.**

Since mine disasters are an ongoing possibility, it is important for MHST to maintain cash balances to handle emergency responses and subsequent investigations. One option for determining the amount needed for operations would be one to two years' worth of disbursements in cash reserves. It should be noted this is similar to the cash balance standard found in *W. VA. Code §30-1-10*, which applies to occupational licensing boards, and requires amounts in excess of twice the annual budget of the board be transferred to the General Revenue Fund. Based on the disbursement amounts in Tables 2, 3, and 4, PERD calculated the average annual disbursements and the recommended cash balance at two

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*Since mine disasters are an ongoing possibility, it is important for MHST to maintain cash balances to handle emergency responses and subsequent investigations.*

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years of operating expenditures as shown in Table 5. Based on the historical spending of the special revenue funds, PERD estimates the excess cash balance to be approximately \$6.7 million higher than what is needed for day-to-day operations.

<b>Table 5</b>			
<b>MHST Excess Cash Balance Estimate</b>			
<b>Fund</b>	<b>Average Annual Disbursements</b>	<b>Recommended Cash Balance</b>	<b>Excess Cash Balance</b>
Special Health, Safety, and Training Fund	\$2,226,777	\$4,453,554	\$4,525,866
Test Fee Fund	\$152,609	\$305,218	\$835,525
Operating Permit Fee Fund	\$83,287	\$166,574	\$1,396,096
<b>Total</b>	<b>\$2,462,673</b>	<b>\$4,925,346</b>	<b>\$6,757,487</b>

*Source: PERD analysis based on maintaining cash balances of two years average annual expenditures.*

### Conclusion

While there are other options for estimating the excess cash balance that can be transferred to the General Revenue Fund, using two years of operating expenses as a starting point, the potential amount transferable would be \$6,757,487. Given the need for prudent management of the State’s finances and that the excess funds are not necessary for day-to-day operations, the Legislative Auditor concludes that the excess cash balance has a high opportunity cost and could be better used elsewhere to support general government operations. **Consequently, the Legislative Auditor recommends the Legislature consider establishing a mechanism that would transfer a portion of the agency’s funds to the General Revenue Fund that exceeds what is needed for operations.**

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*PERD estimates the excess cash balance to be approximately \$6.7 million higher than what is needed for day-to-day operations.*

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### Recommendation

1. *The Legislative Auditor recommends the Legislature consider establishing a mechanism that would transfer a portion of the MHST’s funds to the State General Revenue Fund that is in excess of what the agency needs for operations.*





# Appendix A Transmittal Letter

## WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

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John Sylvia  
Director

October 18, 2018

Greg Norman, Director  
Office of Miners' Health, Safety, and Training  
7 Players Club Drive  
Charleston, WV 25311

Dear Director Norman:

This is to transmit a draft copy of the Performance Review of the Office of Miners' Health, Safety, and Training. This report is tentatively scheduled to be presented during the November 11-13 interim meetings of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting the week of October 22, 2018 through October 26, 2018. Please notify us to schedule a time. In addition, we need your written response by noon on Thursday, November 1, 2018 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, November 8, 2018 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in cursive script.  
John Sylvia

\_\_\_\_\_ *Joint Committee on Government and Finance* \_\_\_\_\_



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## Appendix B

### Objective, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this performance review of the West Virginia Office of Miners' Health, Safety, and Training (MHST) as part of the agency review of the Department of Commerce as required by W. Va. Code §4-10-8(b) (1). The purpose of MHST, as established in W. Va. Code §22A-1-1(b), is the execution and enforcement of the state's mine health and safety laws.

#### Objective

The objective of this audit is to determine what is a prudent fund balance for MHST's special revenue funds.

#### Scope

The scope of Issue 1 is limited to an analysis of MHST's revenues, expenditures, and fund balances for fiscal years 2007 through 2017.

#### Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence.

The primary source of information for Issue 1 is PERD's analysis of data from the Financial Information and Management System (FIMS) and OASIS. Specifically, PERD reviewed general fund appropriations, revenues and expenditures in non-general revenue funds, and the agency's overall ending cash balance for fiscal years 2007 through 2017. Noting the increasing cash balance, PERD obtained testimonial evidence through interviews with agency staff to determine why the cash balance grew annually. PERD also reviewed specific transactions and year-over-year changes to support testimony from staff. Lastly, PERD reviewed West Virginia Code to identify practices used by other agencies with regard to penalties and excessive cash balances.

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 C Agency Response



## State of West Virginia

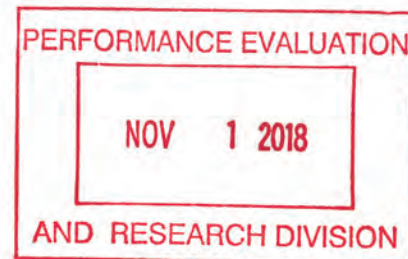
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October 31, 2018

John Sylvia  
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Mr. Sylvia:

After reviewing and our subsequent meeting with Noah Browning and Michael Midkiff to discuss the draft copy of the *Performance Review of the Office of Miners' Health, Safety and Training* relating to fund/cash balances we offer the following response and comments.

**Issue 1: WV OMHST has accumulated fund balances that well exceed operating expenses and has become an uneconomical use of state resources.**

**Response:** During meetings and conversations with PERD staff agency representatives laid out cost effective savings the agency has pursued regarding its state funds and resources which reflects the agency as good stewards and have made economically sound decisions. Some of which are listed below.

- Surrendered seventeen (17) state vehicles
- Eliminated pagers for MHST staff, estimated \$12,000 savings annually
- Relocated dust lab, estimated \$20,000 savings annually
- 2016 – 30 vacancies, estimated savings of two million

On the other hand, the agency has assumed more mandated responsibilities, because of our surplus of funds we were able to immediately implement these without the request of additional funding. We have listed some of those below.

- An Executive Order under Governor Joe Manchin required the creation of a dust lab and dust inspectors for conducting lab testing of coal dust samples for compliance with dust standards in coal mines. The agency incurred the cost of the dust lab, equipment, computers and experts in setting up the software program for the data.



John Sylvia  
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- Substance Abuse Program which requires the mining industry to perform pre-employment and random drug screening of all persons employed in and around coal operations. This program initiated in 2013, has suspended or revoked approximately 1,500 individuals. In this process the individual can appeal to the Coal Mine Safety Board of Appeals who now meets on the average of 1 to 2 days per week to hear the cases. This additional cost of those hearings has been absorbed by the agency, which includes per diems, travel, for board members and pay the cost of any witness or medical review officer who is subpoenaed to appear.
- EMT-M certification program. This required the agency to train staff as instructors to teach the EMT-M program. The agency had to purchase equipment necessary for the training with no additional funding for the equipment or training of staff.
- The agency assumed the responsibilities of the former Diesel Commission, which requires the approval of diesel equipment in the mines. The agency absorbed this cost with no additional funding.
- Provides office space for the Board of Coal Mine Health and Safety' Administrator and Secretary with no reimbursement.

**Issue Summary:** Given the need for prudent management of the State's finances, the Legislature should consider creating a mechanism to address the excess funds held by MHST.

**Response:** The agency is not opposed to working with the Legislature to address the excess funds and would like to make the following proposals for the use of some of the excess funds.

- With the opioid/drug crisis that the mining industry and the state faces the agency would be willing to help fund a "free" rehabilitation facility for individuals whose certifications have been suspended for failing drug screenings and have lost their employment and can not afford to pay for rehabilitation. The funding for a facility of this nature would be beneficial to the mining industry, the miner, his family, his community and for the state. There is nothing available "free" of cost to an individual who has an addiction and therefore can not receive the help he/she would need to overcome and survive.
- From the recommendations of the performance review relating to accident and injuries, the agency would like to propose the creation of a "Safety Analyst" position with the agency. This person would be responsible for review of data and mines and determine trends and make recommendations to the agency for the safety of persons employed at operations who have a trend or history of repeating injuries and accidents.
- Along with that, partner with Marshall University and/or WVU to identify solutions to mitigate which factor is driving the increasing injury rates.
- MHST needs to maintain at a minimum, excess funds of six (6) million in the event of an emergency mine disaster to cover emergency expenses for equipment and mine rescue costs. The agency spent approximately 2 million during the UBB mine disaster, and there is no way to budget for an emergency of that magnitude.

**Page 2 The MHST's excess balance is not committed to any specific purpose or need.**

**Response:** The agency has several ongoing projects in which the excess balance of funds will support, as well as expenditures we have incurred outside of our general revenue funding.



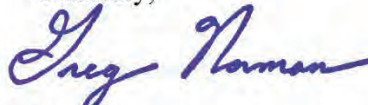
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- MHST has purchased a building to relocate its Oak Hill regional office and house its mine rescue headquarters. The cost of the building along with renovations, equipment, and furnishings will be at a cost of approximately 1.5 million.
- MHST has requested through the Office of Technology a solution to manage and execute the analysis of the agency's business processes, data collection, data processing, and reporting requirements. The project focuses on the requirements necessary to standardize and consolidate existing databases and implement a database management system which, with careful use, allows for the collection and maintenance of complete, current, and synchronized data to achieve the OMHST's business objective. This initial cost is approximately \$286,000 with an annual cost of \$8,000. For a limited time, the agency will have to maintain its current "Safety Information System" until OT completes all phases of the new program.
- Prior to the implementation of the new program, the agency's webpage will need a complete overhaul and design to support an interface for accessing the database. This will allow for a new portal for both our customers and agency to better access and utilize our database.
- MHST is replacing all computer desktops (includes testing desktops) laptops, and monitors. The current equipment is outdated (4-8 years old) and will not support any upgrades that Windows or Microsoft may implement in the near future. The cost is approximately \$182,000.
- Purchased new methane detectors at a cost \$184,000.
- MHST purchased Motorola handheld and stationary radios for supervisors. This allows supervisors to communicate with one another during events or accidents while traveling in remote areas. The initial cost in 2015 was \$87,000. We look to upgrade these in the next 1-2 years.
- Our current inventory of CSE self-contained self-rescuers will need to be replaced in the next 1-2 years. In 2016, the cost was \$43,152.00.
- Innovative Wireless Technology mine rescue exploration at a cost of \$158,551.07.
- Purchased building at 7 Players Club Drive at a cost of \$2,000,000.
- The agency had to pay for the cost of a new roof on our building located at 7 Players Club Drive at a cost of \$200,000.
- The agency provides clothing to its inspection staff, Initially, new inspectors receive boots, safety clothing, mine belts, and hard hats, thereafter we replace boots and clothing every 2 years.

In closing, primarily the agency's special revenue (test fees, permits, assessment from penalties) is not guaranteed income for the agency, it is solely dependent on the economics of the mining industry.

Again, we feel it is imperative that we maintain a surplus of six (6) million to cover any emergency disaster or event in the West Virginia mining industry.

Sincerely,



Greg Norman  
Director







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