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PERFORMANCE REVIEW PARKWAYS AUTHORITY

AUDIT OVERVIEW

The Parkways Authority Has Not Implemented Some Provisions Concerning the Single Fee Program, and It Is Not Clear that the Fee Is Sufficient to Cover the Program's Expenses



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January 12, 2026

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Building 1, Room 214W
1900 Kanawha Boulevard, East
Charleston, WV 25305

The Honorable Chris Phillips
House of Delegates
Building 1, Room 213E
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Chairs:

Pursuant to the West Virginia Performance Review Act, we are transmitting a Performance Review of the West Virginia Parkways Authority. The issue covered herein is:

1. The Parkways Authority Has Not Implemented Some Provisions Concerning the Single Fee Program, and It Is Not Clear that the Fee Is Sufficient to Cover the Program's Expenses.

We transmitted a draft copy of the report to the agency on November 21, 2025. We held an exit conference on December 8, 2025 to discuss any concern the agency may have with the report, and we received the agency's written response on December 12, 2025. If you have any inquiries on this report, please let me know.

Sincerely,

A handwritten signature in black ink that reads "John Sylvia".

John Sylvia

Enclosure

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AUDIT REPORT BRIEF

Performance Audit Summary

Parkways Authority

2017 through 2025

At a Glance: The Parkways Authority established a Single Fee Program authorized under West Virginia Code §17-16A-6(a)(16), but did not implement some of the required statutory provisions, and it is not clear that the single fee is sufficient to cover the program's administrative expenses as required by law.

Issue 1: Incomplete Implementation of the Single Fee Program and Fee Insufficiency

- PERD determined that the Parkways Authority established a Single Fee Program as authorized under W. Va. Code §17-16A-6(a)(16).
- Several statutory provisions required by law were not implemented, including:
 - The Single Fee Program has not been made available through the Division of Motor Vehicles (DMV) for motorists who opt into the program.
 - A separate Single Fee Program Fund for all single fee revenues has not been established.
 - Legislative rules have not been proposed in consultation with the DMV.
- State law requires the single fee to be set at a rate sufficient to cover the administrative costs of the program.
- PERD finds that it is not clear the single fee is sufficient to cover those expenses.

Overall Conclusions

- Senate Bill 1003 of the 2017 First Extraordinary legislative session required provisions to reduce the cost of travel in exchange for continued tolling authority.
- Although the Single Fee Program was implemented, the Parkways Authority did not comply with several mandatory statutory requirements.
- Evidence indicates uncertainty as to whether single fee revenues are sufficient to cover program expenses.

Key Recommendations

- Coordinate with the DMV to make the Single Fee Program available through vehicle registration.
- Create and administer the West Virginia Parkways Authority Single Fee Program Fund and have all single fee revenues deposited into the fund.
- Ensure the single fee is at a rate sufficient to cover the administrative costs of the program.

EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted a performance review of the West Virginia Parkways Authority as authorized under West Virginia Code 4-10-7. The objective of this review is to examine the implementation of the Single Fee Program as created under West Virginia Code 17-16A-6(a)(16). The Single Fee Program allows drivers of non-commercial passenger vehicles to purchase a West Virginia E-Z Pass transponder, pay a one-time annual fee, and travel on the Turnpike without a toll charge. The findings of this report are highlighted below.

Frequently Used Acronyms in the Report:

CSC – Customer Service Center

CSR – Customer Service Representative

DMV – The West Virginia Division of Motor Vehicles

E-ZPass – An electronic toll collection system that allows drivers to pass through toll plazas without stopping to pay toll charges.

PAC Card – Parkways Authority Commuter Card Program

PERD – Performance Evaluation and Research Division

W. Va. Code – West Virginia Code

Report Highlights:

Issue 1: The Parkways Authority Has Not Implemented Some Provisions Concerning the Single Fee Program, and It Is Not Clear that the Fee Is Sufficient to Cover the Program's Expenses

- This performance review determines that the Parkways Authority established a Single Fee Program as authorized under West Virginia Code §17-16A-6(a)(16). By law, several provisions are required to be implemented in establishing the Single Fee Program.
- PERD finds that some of the required provisions for the Single Fee Program have not been implemented by the Parkways Authority, such as making the program available to motorists through the Division of Motor Vehicles for those who opt into the program, creating a separate fund for all single fee revenue, and proposing legislative rules for the program in consultation with the DMV.
- The Single Fee Program is also required by law to generate sufficient revenue to pay for the program's administrative expenses.
- PERD finds that it is not clear that the single fee is sufficient to cover the program's expenses.

PERD's Response to the Agency's Written Response

PERD transmitted a draft of the performance review to the Parkways Authority on November 21st, 2025, and the agency provided a written response to the draft report on December 12, 2025, which can be found in Appendix C. Essentially, the Parkways Authority respectively disagrees with the findings and conclusions of the performance review based on an interpretation of the West Virginia Code that differs from PERD's interpretation.

During the audit, PERD determined that a single fee program under West Virginia Code §17-16A-6(a)(16) was established by the Parkways Authority; however, it was found that several statutory requirements of the program were not implemented. One requirement includes incorporating the single fee program into the Division of Motor Vehicles (DMV) vehicle registration and renewal process by adding the single fee to the annual registration cost for motorists who opt into the program. Other requirements include ensuring that the single fee is sufficient to cover the costs of the program; proposing legislative rules, in consultation with the DMV; and creating a separate Single Fee Program Fund (W. Va. Code 17-16A-11a) for deposit of all single fee revenue.

When PERD inquired why these statutory provisions had not been implemented, Parkways stated, as it reiterates in its written response, that it believes it implemented a single fee EZ Pass transponder program under W. Va. Code §17-16A-29, not §17-16A-6(a)(16). The agency stated that West Virginia Code §17-16A-13a(a)(2) specifies that toll charges may not be increased for passenger vehicles without establishing either a single fee program under §17-16A-6(a)(16) or a single fee EZ Pass transponder program under §17-16A-29. Under Parkways' understanding, section 29 of its enabling statute does not have the requirements stipulated under W. Va. Code §17-16A-6(a)(16). Therefore, according to Parkways, it is not required to implement those provisions.

As a result of the opposing statutory interpretations, PERD requested a legal opinion from the Legislative Auditor's Legislative Services Division to review PERD's and the agency's statutory understanding. Legislative Services provided a legal opinion (see Appendix II) that agreed with PERD's understanding. The opinion states that a single fee was implemented pursuant to §17-16A-6(a)(16); an additional fee should be added to the annual cost of vehicle registration or renewal by the DMV for motorists who opt into the single fee program; the single program fee should be deposited into the West Virginia Parkways Authority Single Fee Program Fund; and legislative rules should be proposed to implement the single fee program in consultation with the DMV.

The legal opinion also states that although it is correct that the Parkways Authority is authorized in §17-16A-29 to establish a discount program for purchasers of EZ Pass transponders, "*it is irrelevant to the issue at hand as it refers to transponders, and not single fee programs.*" The legal opinion further states that the Parkways Authority's interpretation of the statute is "*flawed*" because establishing a transponder discount fee program under §17-16A-29 does not exempt the agency of its legal duty to follow the legal requirements provided in §17-16A-6(a)(16), §17-16A-11a, or §17A-10-17 of the West Virginia Code.

The Parkways Authority also mentions in its written response that the "*Circuit Court of Kanawha County, West Virginia, has determined that the Tolling Policy and Toll Rate Schedule--which automatically*

adjusts tolls and fees for the single fee EZ Pass transponder discount program—was lawfully adopted by Parkways, in compliance with the public notice and meeting requirements set forth in W. Va. Code §17-16A-13a (which are cross-referenced in §17-16A-29)." This assertion is also irrelevant since PERD's report acknowledges that public notice and meetings were conducted as required by code to implement any single fee discount program. The Court's determination does not confirm that Parkways did not create a single fee discount program under §17-16A-6(a)(16). The agency also states that the single fee program has been a success, and it has afforded the agency the ability to issue bonds in 2018 and in 2021 that have been used to construct, improve and repair numerous road projects in southern West Virginia. While these statements are true, they do not address the issue at hand.

The Parkways Authority also states that the DMV "*has advised Parkways that DMV does not concur with PERD's legal analysis that Parkways was required to implement a single fee program under W. Va. Code §17-16A-6(a)(16).*" The agency further states that the DMV believes that the "opt in" aspect of the program, if it were added to DMV's mandatory vehicle registration process, would be difficult for DMV to manage, and it could create a constitutional problem with DMV's collection of the single fee program. First, it should be noted that no where in the report does PERD say that Parkways was "required" to implement a single fee program under W. Va. Code §17-16A-6(a)(16). PERD determined that Parkways implemented two separate discount programs: one under section 6 and the other under section 29 of its enabling statute. Therefore, the program under section 6 required statutory provisions that the agency has not implemented. Secondly, when Senate Bill 1003 was being considered during the 2017 legislative session, the fiscal notes of Parkways and the DMV did not raise any of their current concerns. In fact, the DMV stated, "*The separate fee collected by adding it to a vehicle registration would require programming for the DMV First cash collection system and for the 'DMV' Mainframe. It is estimated that forty (40) hours of programming for DMV First at \$115 per hour for a total cost for the DMV First changes of \$4,600. Mainframe programming will also be required for approximately forty (40) hours at \$90 per hour for a total cost of \$3,600 for the Mainframe changes.*" The total cost to the DMV was estimated at \$8,200 for programming, and no other concerns with the bill were given by the DMV.

PERD's initial understanding of the agency's statutory responsibilities with respect to a single fee discount program was based on the distinction between sections 6 and 29 of the agency's enabling statute, and the discount programs that Parkways has in place. The distinctions are as follows:

- Section 29 does not require an annual fee, while Section 6 does.
- Section 29 is for all classes of vehicles, while Section 6 is only for class 1 passenger non-commercial vehicles.
- Section 29 is described as a discount program for those who purchase a WV EZ Pass transponder that still requires payment of a discounted toll at each toll plaza (§17-16A-29(c)); while Section 6 is described as a single annual fee that allows motorists to traverse the Turnpike with no toll charges at any toll plaza.
- Section 29 did not require an evaluation study, while Section 6 did.

When these distinctions are compared to the programs in place, it is clear that two separate discount programs have been created by the Parkways Authority. The agency's single fee program is only for class 1 non-commercial vehicles, has an annual fee, motorists do not pay a toll at any toll plaza, and the agency evaluated the single fee program's revenue impact to determine feasibility. The feasibility study was conducted as part of issuing the agency's revenue bonds in 2018 and in 2021. The agency's commercial EZ-Pass transponder accounts are for every class of vehicles, they do not require an annual fee, and motorists still must pay a toll at toll plazas but at discounted rates. Given these findings, PERD concludes that the Parkways Authority established single fee discount programs under §17-16A-6(a)(16) and §17-16A-29. Therefore, as the legal opinion of the Legislative Services Division indicates, the Parkways Authority is required to implement the provisions of §17-16A-6(a)(16).

Recommendations

1. *In accordance with West Virginia Code §17-16A-6(a)(16) and §17A-10-17, the Parkways Authority should coordinate with the West Virginia Division of Motor Vehicles to make the Single Fee Program available to owners of motor vehicles in the state who opt into the program.*
2. *Pursuant to West Virginia Code §17-16A-6(a)(16), the Parkways Authority should propose rules for legislative approval, in consultation with the Division of Motor Vehicles, to add the single fee to the annual cost of registering or renewing registration of motor vehicles of those who opt into the Single Fee Program.*
3. *In accordance with West Virginia Code §17-16A-6(a)(16), the Parkways Authority should ensure that the rate of the single fee is sufficient to cover the administrative cost of the Single Fee Program.*
4. *As required by West Virginia Code 17-16A-11a, the Parkways Authority should create and administer the West Virginia Single Fee Program Fund to receive single fee revenues from owners of registered motor vehicles in the state or any other state that have opted in a single fee program authorized by W. Va. Code §17-16A-6(a)(16). Revenues in the fund are to be used to maintain the Turnpike and for administrative costs related to a single fee program*
5. *In accordance with West Virginia Code §17A-2-25 and §17A-10-17, the Parkways Authority should enter into all necessary agreements with the Division of Motor Vehicles to collect the single fee and deposit the fees into the West Virginia Parkways Authority Single Fee Program Fund.*

ISSUE 1

The Parkways Authority Has Not Implemented Some Provisions Concerning the Single Fee Program, and It Is Not Clear that the Fee Is Sufficient to Cover the Program's Expenses

In 2017, all Parkways Authority bonds were scheduled to be paid off in 2019. This would have statutorily triggered the West Virginia Turnpike to be transferred to the Division of Highways and be maintained as a toll-free road. During the 2017 First Extraordinary Session, the West Virginia Legislature passed Senate Bill 1003 that authorizes the Parkways Authority to continue collecting tolls beyond 2019 and raise toll rates to support a road improvement program on and off the Turnpike. In allowing toll collections to continue and be increased, the bill required provisions be made to reduce the cost of traveling on the Turnpike. One such provision was to establish, if feasible, a Single Fee Program that allows drivers of non-commercial passenger vehicles to purchase a West Virginia E-Z Pass transponder, pay a one-time annual fee, and travel on the Turnpike without paying tolls when passing through any West Virginia toll plaza. There are several requirements associated with establishing the Single Fee Program that are examined in this report. The report concludes that the Parkways Authority has not implemented several of the requirements, including making the Single Fee Program available to West Virginia motorists through the Division of Motor Vehicles for those who would opt into the program, and it is not clear that the single fee is sufficient to cover the expenses of the program as required by law.

In allowing toll collections to continue and be increased, the bill required provisions be made to reduce the cost of traveling on the Turnpike. One such provision was to establish, if feasible, a Single Fee Program that allows drivers of non-commercial passenger vehicles to purchase a West Virginia E-Z Pass transponder, pay a one-time annual fee, and travel on the Turnpike without paying tolls when passing through any West Virginia toll plaza.

Senate Bill 1003 of the 2017 First Extraordinary Session Made Major Changes Concerning the Parkways Authority

During the 2017 first extraordinary session of the West Virginia Legislature, Senate Bill (SB) 1003 was passed and signed into law by Governor Justice. The bill was an important part of Governor Justice's "Road to Prosperity Program," in which revenue bonds would be issued to improve the state's roads and bridges. However, for the Road to Prosperity Program to be implemented, significant changes had to be made related to the Parkways Authority. A major issue that had to be addressed was allowing toll collections to continue on the Turnpike. Prior to SB 1003, West Virginia Code (W. Va. Code) §17-16A-18(a), stated that when all bonds issued by the Parkways Authority were fully paid and if the Turnpike was in good condition to the satisfaction of the Commissioner of the Division of Highways, the Turnpike would be transferred to the Division of Highways and maintained free of tolls. The Parkways Authority's bonds were due to be paid in May 2019 and toll collection would then have had to cease. To avert the Turnpike from becoming a

toll-free road in 2019, W. Va. Code §17-16A-18(a) was amended through SB 1003 to delete the language that required toll collections to cease when all Parkways bonds were paid.

However, other important issues were addressed in SB 1003 to facilitate the Road to Prosperity Program. These are described below.

- Prior to the passage of SB 1003, existing law (W. Va. Code §17-16A-11(d)) prohibited the Parkways Authority from issuing revenue bonds for projects on the Turnpike after June 30, 2010. However, SB 1003 deleted this restriction and allowed Parkways to issue revenue bonds for Turnpike projects.
- Under law prior to SB 1003 (W. Va. Code §17-16A-11(a)), the Parkways Authority could not issue revenue bonds in excess of an aggregate outstanding principal amount of \$200 million. SB 1003 eliminated this restriction and did not insert a limit on the aggregate outstanding principal amount of Parkways bonds.
- Prior to SB 1003, W. Va. Code §17-16A-11 required that the proceeds from Parkways revenue bonds could only be used to make improvements and enhancements of the Turnpike, or related Parkways projects that involved any state road or expressway that connected to or intersected with the Turnpike within 75 miles. However, SB 1003 removed this language and amended Code to allow all or any portion of the proceeds of Parkways revenue bonds to be credited, at the Parkways Authority's discretion, to a newly created State Road Construction Account within the State Road Fund administered by the Division of Highways. Any amount credited to the State Road Construction Account can be expended by the Division of Highways for maintenance and repairs to off-Turnpike roads and bridges in 10 counties that surround the Turnpike or that the Turnpike runs through.

With the changes made by SB 1003, Parkways is allowed to issue revenue bonds in excess of \$200 million, and the bond proceeds may be used for off-Turnpike roads and bridges. In 2018, the Parkways Authority issued toll revenue bonds of more than \$166 million, and in 2021 the agency issued another series of revenue bonds totaling over \$333 million. Some or all the bond proceeds could be designated for off-Turnpike road projects in the four counties (Kanawha, Fayette, Raleigh, and Mercer) that the Turnpike runs through, and six additional counties (Greenbrier, Monroe, Summers, McDowell, Nicholas, and Wyoming) that surround the Turnpike. The Parkways Authority may also issue bonds for road construction, maintenance, and improvements on the Turnpike.

To avert the Turnpike from becoming a toll-free road in 2019, W. Va. Code §17-16A-18(a) was amended through SB 1003 to delete the language that required toll collections to cease when all Parkways bonds were paid.

Some or all the bond proceeds could be designated for off-Turnpike road projects in the four counties (Kanawha, Fayette, Raleigh, and Mercer) that the Turnpike runs through, and six additional counties (Greenbrier, Monroe, Summers, McDowell, Nicholas, and Wyoming) that surround the Turnpike.

It was also anticipated that increasing tolls would be needed to implement the Road to Prosperity Program. Prior to SB 1003, increasing tolls on the Turnpike was infrequent. In 2009, the Parkways Authority was authorized to increase toll rates for the first time in 28 years. Cash toll rates for passenger vehicles increased from \$1.25 to \$2.00 (see Table 1 below). The Parkways Authority has had E-ZPass technology on the Turnpike since the year 2000. Prior to SB 1003, vehicles equipped with E-ZPass transponders purchased through the Parkways Authority (WV E-ZPass) could travel through toll plazas without stopping and be charged electronically a discounted rate. Passenger vehicles (Toll Classes 1-4) and commercial vehicles (Toll Classes 5-10) with E-ZPass transponders purchased through Parkways (WV E-ZPass) were charged a discount amount from the cash rate on the mainline. Passenger vehicles received a 35 percent discount and commercial vehicles received 20 percent. The toll plazas were equipped to automatically identify the transponders of vehicles and assess the discounted toll charge to respective accounts. Passenger vehicles with transponders issued from another state (Non-WV E-ZPass) received no toll discount, but commercial vehicles with a Non-WV E-ZPass received a 13 percent discount.

To allow more flexibility in raising toll rates, SB 1003 amended into law that toll charges “may be subject to adjustment or escalation from time to time” (W. Va. Code §17-16A-13a(a)(1)).

Table 1
Parkways Toll Rates - Pre SB 1003

Toll Class	Vehicle Type	No. of Axles	Barriers A, B & C			North Beckley		
			Cash	WV E-ZPass	Non-WV E-ZPass	Cash	WV E-ZPass	Non-WV E-ZPass
1	Passenger cars/pickup trucks (under 7' 6")	2	\$2.00	\$1.30	\$2.00	\$0.40	\$0.26	\$0.40
2	All Class 1 vehicles with a trailer (under 7' 6")	3+	\$2.50	\$1.63	\$2.50	\$0.80	\$0.52	\$0.80
3	Motorhomes only (over 7' 6")	2-3	\$2.50	\$1.63	\$2.50	\$0.80	\$0.52	\$0.80
4	Class 3 vehicles with a trailer (over 7' 6")	3+	\$3.25	\$2.11	\$3.25	\$1.20	\$0.78	\$1.20
5	2-axle trucks	2	\$3.25	\$2.60	\$2.83	\$0.80	\$0.64	\$0.70
6	3-axle trucks	3	\$4.50	\$3.60	\$3.92	\$1.20	\$0.96	\$1.04
7	4-axle trucks	4	\$6.50	\$5.20	\$5.66	\$1.60	\$1.28	\$1.39
8	5-axle trucks	5	\$6.75	\$5.40	\$5.87	\$1.60	\$1.28	\$1.39
9	6 or more-axle trucks	6+	\$9.50	\$7.60	\$8.27	\$2.40	\$1.92	\$2.09
10	Oversize trucks		\$12.00	\$9.60	\$10.44	\$7.20	\$5.76	\$6.26

Source: West Virginia Parkways Authority

Note: Class 1 refers to 2-axle vehicles with a gross vehicle weight less than 8,000 lbs. and under 7'6" not being used for commercial purposes.

Passenger Cars refers to Classes 1-4 and commercial vehicles refers to Classes 5-10.

To allow more flexibility in raising toll rates, SB 1003 amended into law that toll charges “may be subject to adjustment or escalation from time to time” (W. Va. Code §17-16A-13a(a)(1)). In April 2018, the Parkways Authority accepted a resolution to adopt a new toll rate schedule that doubled the previous toll rates for all classes of vehicles,

effective January 15, 2019. Table 2 shows the January 2019 effective toll rates. The rate for passenger vehicles increased from \$2.00 to \$4.00 and the top rate for oversize trucks went from \$12.00 to \$24.00. The 2018 resolution also authorized “forward-looking automatic toll increases” for all vehicle classes equal to 1.6 percent each year becoming effective every third year and not to exceed five percent. The automatic toll increases began on January 1, 2022, in which the toll rate for passenger vehicles increased from \$4.00 to \$4.25, and three years later the rate increased to \$4.50 on January 1, 2025.

The 2018 resolution also authorized “forward-looking automatic toll increases” for all vehicle classes equal to 1.6 percent each year becoming effective every third year and not to exceed five percent.

Table 2
Parkways Toll Rates – January 15, 2019

Toll Class	Vehicle Type	Number of axles	Barriers A, B & C WV E-ZPass Personal			North Beckley WV E-ZPass Personal		
			Cash	Barriers A, B & C WV E-ZPass Commercial	Non-WV E-ZPass	Cash	North Beckley WV E-ZPass Commercial	Non-WV E-ZPass
1	Single Fee Discount Program	2	\$0.00 with valid Single Fee Discount Plan			\$0.00 with valid Single Fee Discount Plan		
Toll Class	Vehicle Type	Number of axles	Cash	Barriers A, B & C WV E-ZPass Commercial	Non-WV E-ZPass	Cash	North Beckley WV E-ZPass Commercial	Non-WV E-ZPass
1	Passenger Cars/Pickup Trucks/Motorcycles and Passenger Vans (under 7'6")	2	\$4.00	\$2.60	\$4.00	\$0.75	\$0.00 with Single Fee Discount Plan	\$0.75
2	All Class 1 vehicles with a trailer (under 7' 6")	3+	\$5.00	\$3.26	\$5.00	\$1.50	\$1.04	\$1.60
3	Motorhomes only (over 7' 6")	2-3	\$5.00	\$3.26	\$5.00	\$1.50	\$1.04	\$1.60
4	Class 3 vehicles with a trailer (over 7' 6")	3+	\$6.50	\$4.22	\$6.50	\$2.50	\$1.56	\$2.40
5	2-axle trucks	2	\$6.50	\$5.20	\$5.66	\$1.50	\$1.28	\$1.40
6	3-axle trucks	3	\$9.00	\$7.20	\$7.84	\$2.50	\$1.92	\$2.08
7	4-axle trucks	4	\$13.00	\$10.40	\$11.32	\$3.25	\$2.56	\$2.78
8	5-axle trucks	5	\$13.50	\$10.80	\$11.74	\$3.25	\$2.56	\$2.78
9	6 or more-axle trucks	6+	\$19.00	\$15.20	\$16.54	\$4.75	\$3.84	\$4.18
10	Oversize trucks		\$24.00	\$19.20	\$20.88	\$14.50	\$11.52	\$12.52

Source: West Virginia Parkways Authority

The Single Fee Discount Program Under SB 1003 Offers Significant Savings for Turnpike Motorists

As stated previously, SB 1003 authorizes the Parkways Authority to increase toll rates and allows periodic increases. However, an important requirement of the bill (W. Va. Code §17-16A-13a(a)(2)) is that Parkways may not increase any passenger vehicle tolls without first establishing either a Single Fee Program pursuant to W. Va. Code §17-16A-6(a)(16) or a passenger vehicle single fee discount for the E-ZPass transponder pursuant to W. Va. Code §17-16A-29.

W.Va. Code § 17-16A-29(a) states:

- (a) The Parkways Authority is hereby authorized to create a discount program for purchasers of West Virginia EZ

Pass transponders: Provided, that prior to the fixation of any initial rates, tolls or charges or any increase in any rates, tolls or charges along any portion of the parkway project, the Parkways Authority may create a discount program for purchasers of West Virginia EZ Pass transponders. Any discount program created pursuant to this section shall provide discounts for each class of motor vehicles: **Provided, however, that any single fee program implemented by the authority pursuant to subdivision (16), subsection (a), section six of this article shall apply only to passenger motor vehicles.** (emphasis added)

The difference between the two is that W. Va. Code §17-16A-29 states Parkways shall provide discounts for each class of motor vehicles for use of the E-ZPass transponder, whereas the Single Fee Program under W. Va. Code §17-16A-6(a)(16) only applies to non-commercial passenger vehicles, allowing those vehicles to travel through toll plazas without a toll charge for a one-time annual fee (see Table 2 above).

As Table 2 above shows, both programs have been implemented. Toll Class 1 non-commercial passenger vehicles enrolled in the Single Fee Discount Program pay an annual fee and do not pay a toll charge when passing through a toll plaza. However, toll classes 1-4 receive a 35 percent discount which applies to commercial-use passenger vehicles, passenger vehicles with a trailer, motorhomes, and motorhomes with a trailer if the motorist has a WV E-ZPass transponder. Commercial vehicles in Classes 5-10 receive a 20 percent discount if the vehicle has a WV E-ZPass account, and commercial vehicles with non-WV E-ZPass accounts receive a 13 percent discount.

An important factor of the Single Fee Program under SB 1003 is that the initial fee cannot exceed \$25 per year.¹ This is significant because it was intended to provide greater cost savings than Parkways' single fee program that existed prior to SB 1003. Since 1994, the Parkways Authority had a toll discount program known as the Parkways Authority Commuter Card (PAC Card) Program (see Appendix I). The PAC Card program was integrated into the E-ZPass system and it allowed non-commercial, frequent commuters on the Turnpike to travel through toll plazas without a toll charge, similar to the Single Fee Program of SB 1003. However, the

Table 2 shows both programs have been implemented. Toll Class 1 non-commercial passenger vehicles enrolled in the Single Fee Discount Program pay an annual fee and do not pay a toll charge when passing through a toll plaza.

Commercial vehicles in Classes 5-10 receive a 20 percent discount if the vehicle has a WV E-ZPass account, and commercial vehicles with non-WV E-ZPass accounts receive a 13 percent discount.

¹ From September 15, 2018, through December 31, 2018, Parkways Authority offered an early enrollment incentive by making the Single Fee Discount Program available at a reduced rate of \$24, and for those who enrolled in the program by December 31, 2018, they would have unlimited travel on the Turnpike for three years, through December 31, 2021. However, in its December 28, 2018, emergency meeting, the Parkways Authority approved extending the deadline to apply for the Early Enrollment Option from December 31, 2018, to January 11, 2019.

cost for the PAC Card was \$25 quarterly or \$95 annually for each of the three mainline toll plazas. Therefore, to travel through all three mainline travel plazas without being charged tolls would cost \$285 for the year, compared to \$25 per year under the Single Fee Program of SB 1003. As Table 3 below shows, when the toll was \$1.25, a motorist who purchased a PAC Card for only one mainline toll plaza would not realize savings until after three round trips per month. When the toll rate was increased to \$2.00, savings were realized after two round trips per month.

Table 3 Parkways Authority Commuter (PAC) Card Program						
PAC Card Discount at \$1.25 Toll Cost						
# Round Trips <u>Per Month</u> (One Toll Plaza)	# Toll Transactions Per Year	Toll Rate	Total Cost	PAC Card Annual Fee	Annual Cost Savings	Annual PAC % Savings
2	48	\$1.25	\$60.00	\$95.00	(\$35.00)	-58%
3	72	\$1.25	\$90.00	\$95.00	(\$5.00)	-6%
4	96	\$1.25	\$120.00	\$95.00	\$25.00	21%
5	120	\$1.25	\$150.00	\$95.00	\$55.00	37%
PAC Card Discount at \$2.00 Toll Cost						
# Round Trips <u>Per Month</u> (One Toll Plaza)	# Toll Transactions Per Year	Toll Rate	Total Cost	PAC Card Annual Fee	Annual Cost Savings	Annual PAC % Savings
2	48	\$2.00	\$96.00	\$95.00	\$1.00	1%
3	72	\$2.00	\$144.00	\$95.00	\$49.00	34%
4	96	\$2.00	\$192.00	\$95.00	\$97.00	51%
5	120	\$2.00	\$240.00	\$95.00	\$145.00	60%

Source: PERD calculations using Parkways Authority toll rates and PAC Card fees.

The Single Fee Program under SB 1003 phased out the PAC Card discount plan because the \$25 annual fee provided significant cost savings. Existing Parkways customers with WV E-ZPass accounts were automatically enrolled in the new Single Fee Program at the reduced rate. Table 4 shows that in January 2019, when the toll rate for non-commercial passenger vehicles was set at \$4.00, the SB 1003 Single Fee Program realized annual savings of 74 percent for motorists who only had one round trip per month per year through a toll plaza, whereas, under the previous PAC Card Program, a motorist would have had to make 4 round trips each month to realize an annual cost savings of 74 percent.

Table 4
SB 1003 Single Fee Annual Savings 2019

# Round Trips Per Month	Toll Transactions Per Year	2019 Toll Rate	Total Annual Toll Cost	2019 Single Fee Rate*	Annual Single Fee Cost Savings	Annual Single Fee % Savings
1	24	\$4.00	\$96.00	\$25.00	\$71.00	74%
2	48	\$4.00	\$192.00	\$25.00	\$167.00	87%
3	72	\$4.00	\$288.00	\$25.00	\$263.00	91%
4	96	\$4.00	\$384.00	\$25.00	\$359.00	93%
5	120	\$4.00	\$480.00	\$25.00	\$455.00	95%

Source: PERD calculations using 2019 Parkways toll rates and single fee.

**There is a one-time non-refundable \$13 fee for the issuance of a transponder that is separate from the annual fee.*

SB 1003 authorized under W. Va. Code §17-16A-13a(a)(2)(A), that the annual fee for the Single Fee Program may be adjusted every three years but not to exceed five percent of the amount at each adjustment. The Parkways Authority established annual fee increases for the Single Fee Program every three years. The fee was set at \$25 on January 1, 2019. It was increased to \$26.50 effective January 1, 2022, and then increased to \$27.50 on January 1, 2025. As Table 5 shows, even as the single fee has increased, the increase of the toll rate means the annual savings realized remains consistent to the savings when the toll rate was \$4.00 in 2019 and the single fee was \$25.

Table 5
SB 1003 Single Fee Annual Savings 2025

# Round Trips Per Month	Toll Transactions Per Year	Current 2025 Toll Rate	Total Annual Toll Cost	Current 2025 Single Fee Rate	Annual Single Fee Cost Savings	Annual Single Fee % Savings
1	24	\$4.50	\$108.00	\$27.50	\$80.50	75%
2	48	\$4.50	\$216.00	\$27.50	\$188.50	87%
3	72	\$4.50	\$324.00	\$27.50	\$296.50	92%
4	96	\$4.50	\$432.00	\$27.50	\$404.50	94%
5	120	\$4.50	\$540.00	\$27.50	\$512.50	95%

Source: PERD calculations using 2025 Parkways toll rates and single fee.

It should be noted that although the Single Fee Program provides significant cost savings to the frequent travelers on the Turnpike, the single fee is established at a rate that realizes cost savings for infrequent travelers as well. Table 6 shows that at the 2025 toll rate and single fee, a motorist who makes one roundtrip on the mainline in a year will be close to breaking even, and if two roundtrips are taken, a cost savings of nearly 50 percent will be realized.

Table 6 Single Fee Program						
Number of Round Trips on the Mainline Per Year	Number of Toll Transactions	2025 Toll Rate	Toll Cost	2025 Single Fee*	Cost Savings	Pct. Savings
1	6	\$4.50	\$27.00	\$27.50	-\$0.50	-1.9%
2	12	\$4.50	\$54.00	\$27.50	\$26.50	49.1%
3	18	\$4.50	\$81.00	\$27.50	\$53.50	66.0%
4	24	\$4.50	\$108.00	\$27.50	\$80.50	74.5%
5	30	\$4.50	\$135.00	\$27.50	\$107.50	79.6%

Source: PERD calculations using 2025 toll rates and single fee data from Parkways Authority.
*Does not include the cost of a transponder.

The Parkways Authority Has Not Complied with Major Single Fee Provisions of SB 1003

PERD finds that the agency has implemented the Single Fee Program authorized by W. Va. Code §17-16A-6(a)(16). However, Parkways is statutorily required to comply with certain provisions in implementing the program. Some of the important provisions are listed below:

1. Evaluate and implement, if feasible, a Single Fee Program for non-commercial passenger vehicles (W. Va. Code §17-16A-6(a)(16)).
2. Give public notice and conduct at least one public meeting prior to fixing the initial fee for the Single Fee Program and any subsequent increases of the program's fees (W. Va. Code §17-16A-13a).
3. Ensure that the rate of the single fee will provide aggregate toll revenues sufficient to pay for road construction and repair, debt service, and any bond covenant agreements (W. Va. Code §17-16A-6(a)(16)).

4. Ensure that the rate of the single fee set by the Parkways Authority is sufficient to cover the administrative cost of the Single Fee Program (W. Va. Code 17-16A-6(a)(16)).
5. Make the Single Fee Program available to owners of motor vehicles in the state who opt into the program by adding the single fee to the annual cost of registering or renewing the registration of their vehicles with the West Virginia Division of Motor Vehicles (DMV) (W. Va. Code §17-16A-6(a)(16), and §17A-10-17).
6. Enter into all necessary agreements between the DMV and the Parkways Authority for the DMV to collect the single fee and deposit the fees into the West Virginia Parkways Authority Single Fee Program Fund (W. Va. Code §17A-2-25, and §17A-10-17).
7. Establish the West Virginia Parkways Authority Single Fee Program Fund, to be administered by the Parkways Authority, to receive single fee revenues from owners of registered motor vehicles in the state or any other state that have opted into a single fee program authorized by W. Va. Code §17-16A-6(a)(16). Revenues in the fund are to be used to maintain the Turnpike and for administrative costs related to a single fee program (W. Va. Code 17-16A-11a).
8. Propose rules for legislative approval, in consultation with the DMV, to implement any single fee program under W. Va. Code §17-16A-6(a)(16).

West Virginia Code §17-16A-6(a)(16) requires the Parkways Authority to study, evaluate and implement, if feasible, a single fee program that applies only to non-commercial passenger vehicles. In conjunction with issuing \$166 million in revenue bonds in 2018, the Parkways Authority engaged its Traffic Consultant, CDM Smith Inc., to study the effects of potential toll policy changes on traffic and toll revenue on the Turnpike.

Public Notice, Public Meetings, and a Feasibility Study Were Completed

PERD finds that items 1 and 2 listed above were completed. Pursuant to W. Va. Code §17-16A-13a, the Parkways Authority gave prior public notice to the Secretary of State of its scheduled April 5, 2018, Finance Committee meeting to discuss issuing revenue bonds, increasing toll rates, and implementing a new annual single fee discount program. Also, prior notice was given for the dates, times, and locations of four scheduled public meetings to be held in May 2018, which were prior to issuing the revenue bonds, raising toll rates, and implementing the single fee discount program later in 2018. Parkways also made available to the public the documents that would be discussed at the public meetings.

West Virginia Code §17-16A-6(a)(16) requires the Parkways Authority to study, evaluate and implement, if feasible, a single fee program that applies only to non-commercial passenger vehicles. In conjunction with issuing \$166 million in revenue bonds in 2018, the Parkways Authority engaged its Traffic Consultant, CDM Smith Inc., to study the effects of potential toll policy changes on traffic and toll revenue on the Turnpike. The policy changes being considered included increasing toll rates, and introducing a single fee discount program

authorized under West Virginia Code §17-16A for Class 1 passenger non-commercial customers. The CDM Smith prepared a draft report entitled, West Virginia Turnpike 2018 Revenue Bond Study, which was considered for adoption or modification during the April 5, 2018, Finance Committee meeting. The report identified an important intention of the analysis in the following statement: *“The intent of WVPA staff has been to maximize the amount of toll revenue bonds that can be sold, while maintaining the benefits of the flat fee program and retaining reasonable toll rates, as well as providing funds to keep the Turnpike in a good state of repair and operating efficiently.”*

The flat fee, or Single Fee Program, was an important part of the analysis because the program would be offered at a low price, and it would negatively impact toll revenue through toll-free transactions. Furthermore, the CDM Smith report had to factor into the analysis a limited, one-time early enrollment incentive that would allow customers to enroll in the Single Fee Program for calendar years 2019 through 2021 at a one-time cost of \$24 if they opted into the program by January 11, 2019. This early enrollment option became available on September 24, 2018, and ended on January 11, 2019. This incentive would further reduce toll revenues for the 2018-2021 period. The CDM Smith study produced estimates of toll transactions and annual toll revenue based on a 100 percent increase in toll rates and the implementation of the Single Fee Discount Program.

The conclusions of the CDM Smith study did not discourage the implementation of the Single Fee Discount Program. The study estimated that the number of toll transactions would increase from 36.9 million in 2017 to approximately 38.1 million in 2018 due in part to the early enrollment in the Single Fee Program that would allow customers toll-free travel on the Turnpike. However, the increase in toll transactions would be short-lived because doubling the toll rate in 2019 was estimated to decrease toll transactions from 38.1 million to around 34.3 million from 2018 to 2019. In addition, the report expected toll transactions to further drop in 2022 to around 33.5 million because the early enrollment option would end and customers would be faced with continuing in the Single Fee Program at the annual price of \$25. Although the CDM Smith report expected toll transactions to remain around 34 million, toll revenues were still expected to increase because the toll rate increase would be high enough to offset the lower number of toll transactions. Toll revenues were estimated to grow annually from 1.1 percent to 1.7 percent through the year 2040 spurred on by the periodic toll increases up to five percent every three years.

During its April 5, 2018 meeting, the Parkways Authority received and accepted by resolution the findings and analysis of the CDM Smith report regarding revenue forecasts for the Turnpike based on the proposed doubling of the toll rates for all classes of vehicles, periodic toll rate increases up to five percent every three years, a Single Fee Discount

The flat fee, or Single Fee Program, was an important part of the analysis because the program would be offered at a low price, and it would negatively impact toll revenue through toll-free transactions.

The conclusions of the CDM Smith study did not discourage the implementation of the Single Fee Discount Program.

Program that would include a one-time early enrollment incentive, and increases in the single fee of up to five percent every three years.

The Single Fee Program Has Not Been Made Available to Motorists through the DMV

West Virginia Code §17-16A-6(a)(16), and §17A-10-17 require that opting into the Parkways Authority's Single Fee Program by motorists be made available when they register or renew the registration of their vehicles with the DMV. Motorists would have the option to enroll into the program when they register their vehicles, and the single fee would be added to the annual registration cost by the DMV. This statutory provision has not been implemented by Parkways in consultation with the DMV. According to the DMV, since passage of SB 1003, the Parkways Authority has not communicated with the DMV concerning making enrollment into the Single Fee Program available to motorists through DMV's vehicle registration process.

The DMV provided a fiscal note for SB 1003 that stated:

The separate fee collected by adding it to a vehicle registration would require programming for the DMV First cash collection system and for the 'DMV' Mainframe. It is estimated that forty (40) hours of programming for DMV First at \$115 per hour for a total cost for the DMV First changes of \$4,600. Mainframe programming will also be required for approximately forty (40) hours at \$90 per hour for a total cost of \$3,600 for the Mainframe changes.

The total cost to accommodate the single fee to be added to the vehicle registration cost was \$8,200 for fiscal year 2018. The Parkways fiscal note for SB 1003 stated no fiscal impact.

However, when PERD contacted the DMV to respond for this audit, the agency's general counsel stated the following:

The W.Va. Code §17-16A-6(a)(16) single fee program describes the purpose "to charge a flat fee to owners of motor vehicles registered in this state who *opt into* any such program." The *opt in* aspect of the program attached to a mandatory registration process will make it difficult to manage or ineffectual. In addition, the *opt in* language is seemingly contradicted in the same paragraph with the sentence "The single fee program may also include comparable provisions which would allow vehicles registered in other states to traverse West Virginia toll roads in like fashion to West Virginia vehicles as set forth

West Virginia Code §17-16A-6(a)(16), and §17A-10-17 require that opting into the Parkways Authority's Single Fee Program by motorists be made available when they register or renew the registration of their vehicles with the DMV.

in this section upon payment of a single fee *for each and every vehicle registered in such state*, in accordance with the same classification system adopted for West Virginia vehicles.” It is unclear whether the owner opts in to the single fee program or the program applies to each and every registered vehicle. Lastly, the effort to separate Parkway revenue bonds from state debt in W.Va. Code §17-16A-2 could be at risk considering the definition of “toll revenue” in W.Va. Code §17-16A-5(o), and W.Va. Constitution Article VI, §52 with the implementation of DMV collecting the toll revenue under W.Va. Code §17A-10-17.

PERD asked Parkways why it has not coordinated with the DMV to have enrollment into the Single Fee Discount Program incorporated into the DMV’s vehicle registration process. The Parkways Authority gave the following explanation:

In accordance with West Virginia Code §17-16A-13a, enacted in 2017, the Authority is required to establish either a single fee program under §17-16A-6a [sic] or an unlimited-use, passenger vehicle single fee program under §17-16A-29. The Authority elected in 2018 to implement the latter and has maintained this program continuously. As a result, requirements associated with §17-16A-6a [sic], such as the creation of a special account within the State Road Fund or DMV-administered revenue collections, do not apply. No legislative rules were promulgated under that section.

To determine if the Parkways Authority’s interpretation of West Virginia Code is correct, PERD requested a legal opinion from the Legislative Services Division within the Office of the Legislative Auditor, which can be seen in Appendix II. The legal opinion determines that:

On April 5, 2018, the Parkways Authority held a meeting where they received and accepted reports, studies, information, recommendations, findings and analyses regarding toll changes including the proposed single fee discount program and the limited one-time program, including the study by their traffic engineer. Based on this study, the Parkways Authority implemented the single fee program beginning in 2019. ... Electing to implement the transponder discount fee program under §17-6A-13a of this code provided the Parkway Authority the authorization to increase rate, tolls or charges for passenger rate vehicles. It did not exempt the Parkways Authority from their

This statutory provision has not been implemented by Parkways in consultation with the DMV. According to the DMV, since passage of SB 1003, the Parkways Authority has not communicated with the DMV concerning making enrollment into the Single Fee Program available to motorists through DMV’s vehicle registration process.

legal duty to follow the legal requirements provided in §§17-16A-6(a)(16), 17-16A-11a and 17A-10-17 of this West Virginia code.

The legal opinion made the following conclusion:

As concluded in this opinion pursuant to relevant code sections and amendments thereto, and publicly available information, the Parkways Authority implemented a single fee program under §17-16A-6(a)(16) of this code beginning in 2019 and, at that time, should have created the Parkways Authority Single Fee Program Fund and promulgated legislative rules in consultation with the Division of Motor Vehicles. Accordingly, the Division of Motor Vehicles should have been collecting an additional fee payable upon the issuance of each certificate of registration and renewal for owners of motor vehicles registered in this state who opt into any single fee program implemented by the Parkways Authority pursuant to §17-16A-6-(a)(16) of this code and deposit all the additional fees into the West Virginia Parkways Authority Single Fee Program Fund created in §17-16A-11a of this code.

The legal opinion made the following conclusion: As concluded in this opinion pursuant to relevant code sections and amendments thereto, and publicly available information, the Parkways Authority implemented a single fee program under §17-16A-6(a)(16) of this code beginning in 2019 and, at that time, should have created the Parkways Authority Single Fee Program Fund and promulgated legislative rules in consultation with the Division of Motor Vehicles.

The Single Fee Program Fund Has Not Been Created and No Legislative Rule Has Been Proposed in Consultation with the DMV to Implement a Single Fee Program

PERD also finds that Parkways has not created the West Virginia Parkways Authority Single Fee Program Fund pursuant to W. Va. Code §17-16A-11a, and it has not proposed legislative rules, in consultation with the DMV, to implement the Single Fee Program as required by W. Va. Code §17-16A-6(a)(16). The reason given by Parkways for not fulfilling these provisions of Code is as stated previously, that it established the unlimited-use, passenger vehicle single fee program under §17-16A-29 not under §17-16A-6(a)(16); therefore, coordinating with the DMV, proposing legislative rules in consultation with the DMV, and creating the Single Fee Program Fund are inapplicable.

With respect to the Single Fee Program Fund, it is to be a special account within the State Road Fund, administered by the Parkways Authority, and designated to receive *“any fees received from owners of registered motor vehicles in the state or any other state that have opted in under any single fee program that may be created and implemented by the authority pursuant to section six of this article.”* The special account is for the exclusive use of maintaining the Turnpike and paying the

administrative costs of the Single Fee Program. The Parkways Authority indicated that it has only one active fund, and as such, the Single Fee Program revenues and expenditures are comingled with toll revenues and other expenditures. Having the administrative costs of the Single Fee Program comingled with other administrative expenses is not conducive to analyzing the administrative costs of the program against the revenues to ensure that the flat fee is sufficient to cover these costs as required. The following subsection indicates that it is not clear if the flat fee is covering the administrative costs of the Single Fee Program.

It Is Not Clear that the Fee of the Single Fee Program Is Sufficient to Cover Its Administrative Costs

By law (W. Va. Code 17-16A-6(a)(16)), the fee of the Single Fee Program set by Parkways must be sufficient to cover the administrative cost of the program. The Single Fee Program is administered through the Parkways Authority's Customer Service Center (CSC). According to a study sponsored by the U.S. Department of Transportation, the emergence of electronic toll collection has resulted in a shift to major investments in "back-office" systems or customer service centers to create and manage electronic toll accounts, and provide a point of contact with toll customers either in person, by phone or online.² Some of the services performed by Parkways' CSC include:

- opening new individual and commercial E-ZPass accounts, and Pay-by-Plate accounts,³ as well as closing or updating such accounts;
- processing transponder requests that come in from the U.S. mail or from the internet;
- serving walk-in customers who need assistance opening/closing/ updating their accounts, making payments to account, paying toll violations or unpaid tolls, disputing violations, replacing transponders, and answering customer questions;
- receiving telephone calls to address the same types of assistance that are provided to walk-in customers;

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²*U.S. Department of Transportation, Federal Highway Administration, Nationwide Electronic Toll Collection Interoperability, March 2021, Report No. FHWA-HOP-21-023, 27.*

³*Pay-by-Plate accounts became available in September 2024. These accounts do not have an annual fee and a transponder is not required. Enrollees must provide Parkways with their name, credit card information, vehicle information, and license plate number. The person's credit card is charged when the vehicle is identified when it passes through a toll plaza on the Turnpike.*

- reviewing photo images of vehicles and license plates that went through toll plazas without paying to determine who is liable for toll charges;
- responding to email inquiries concerning assistance for opening accounts, adding a vehicle to an existing account, how to pay a toll violation, or disputing a toll violation; and
- processing payments that are received via U.S. mail.

Table 7 below shows the types of duties required by the CSC and the level of change from calendar year (CY) 2018 through October 2025. The average monthly active accounts have grown from 64,592 in 2018 to 162,569 in 2025. The average number of walk-in customers served has also grown significantly. Reviewing photo images of vehicles and license plates for toll violations or unpaid tolls has had the greatest expansion of duties. Parkways has contracts with two companies, Duncan Solutions, and Global Agility, to assist in image reviews. Duncan Solutions is used when vehicle and license plate images are not clear. Duncan Solutions will assist in identifying who the vehicle owner is. The images that Duncan Solutions reviews will be returned to Parkways for its second review. The West Virginia Division of Motor Vehicles (DMV) is used to assist Parkways in identifying vehicle owners. The DMV will send owner details on vehicles to Parkways. Once the owner of the imaged vehicle is identified, a toll charge will be sent to the owner. In some cases, a vehicle or license plate image is not clear enough to identify the license plate or vehicle, in which case the customer service representative (CSR) will delete the image completely and no toll charge can be made. Global Agility also assists in reviewing images by helping to identify license plate types. Global Agility is expected, per contract, to complete 8,000 image reviews each day.

The average monthly active accounts have grown from 64,592 in 2018 to 162,569 in 2025. The average number of walk-in customers served has also grown significantly. Reviewing photo images of vehicles and license plates for toll violations or unpaid tolls has had the greatest expansion of duties.

Table 7
Average Monthly Customer Service Duties
CY 2018 Compared to CY 2025

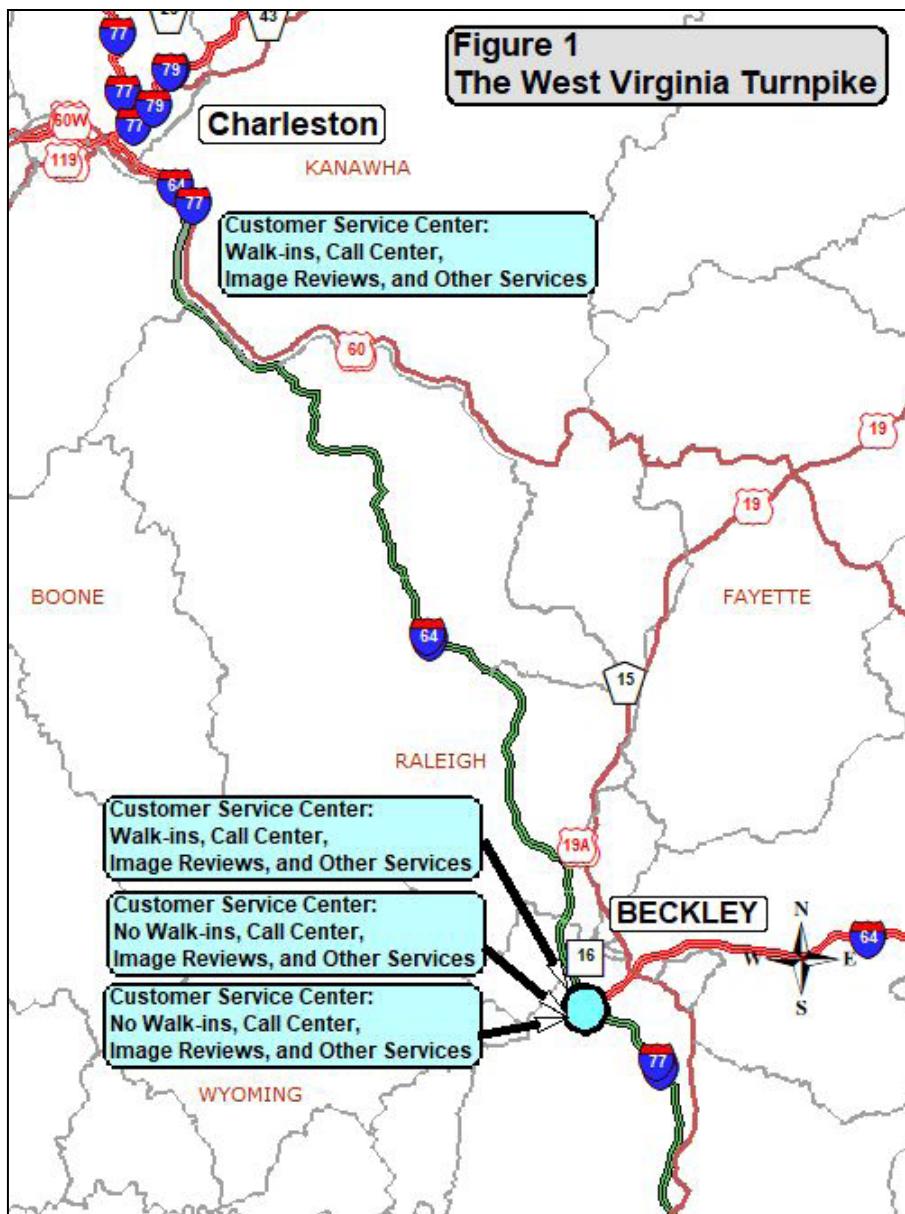
	2018	2025*
Number of Active Accounts (single fee, commercial)	64,592	162,569
Number of Transponders Issued	7,115	5,623
Number of Walk-ins Served	1,305	3,635
Number of Calls Answered	11,128	16,446
Number of Photo Images Reviewed	82,506	353,076

Source: West Virginia Parkways Authority, Monthly Reports on the Customer Service Operations.

**Data through October 2025.*

Figure 1 below shows the locations of CSCs along the Turnpike. Until 2020, the Charleston CSC handled all customer service duties. There are 30 CSRs employed at the Piedmont Road office in Charleston, West Virginia. However, the Parkways Authority Board of Directors decided that customer services were needed in Beckley since it is the center of the Turnpike, and it would make it easier for citizens in the southern part of West Virginia to receive services for their E-ZPass accounts. So, in 2020, a CSC was constructed in Beckley on Pikeview Drive at an estimated cost of \$400,000. The CSC in Beckley serves as a call center, assists walk-in customers, conducts image reviews, and assists customers with their E-ZPass accounts. In March 2023, Parkways provided two additional call centers located in the agency's Beckley South complex. The Beckley South complex has two buildings that function as call centers, image reviews are conducted, and other services are provided; however, they do not provide walk-in services. Appendix III shows photographs of the three facilities in Beckley that provide customer services. The main Beckley office at 12 Pikeview Drive has seven CSRs, and one of the George Street facilities has 18 CSRs and the other building has 14 staff. In total, there are 39 CSRs who work in the three Beckley CSC facilities.

The Parkways Authority Board of Directors decided that customer services were needed in Beckley since it is the center of the Turnpike, and it would make it easier for citizens in the southern part of West Virginia to receive services for their E-ZPass accounts. So, in 2020, a CSC was constructed in Beckley on Pikeview Drive at an estimated cost of \$400,000.



In March 2023, Parkways provided two additional call centers located in the agency's Beckley South complex.

The expansion of CSCs and customer service duties required significant increases in customer services representatives. Figure 2 below shows the growth in CSRs from CY 2016 through June 30, 2025. According to the State's central accounting system, Our Advanced Solution with Integrated Systems (OASIS), fulltime permanent staff for Parkways' CSCs has grown from a total of 18 in CY 2017, the year before the Single Fee Program came into effect, to 65 as of June 30th, 2025. This is a 261 percent increase.

Figure 2
Parkways Authority
Customer Service Unit Employees
December 31 of Each Year



*As of June 30, 2025.

Source: West Virginia Our Advanced Solution with Integrated Systems (OASIS), report WV-HRP-PC-011.

Table 8 below shows the number of single fee accounts and revenue, as well as total expenses for the CSCs for calendar years (CY) 2017 through 2024. It should be noted that the expenses shown in Table 8 are for all customer services provided by CSCs including commercial and Pay-by-Plate accounts, but revenue represents only the Single Fee Program. Single fee accounts under SB 1003 became available in September 2018. Prior to that, Parkways had the PAC Card Program that operated similarly to a single fee program, but the fee was higher than the single fee of SB 1003. The number of single fee accounts began to increase late in 2018, as the agency announced the incentive that allowed customers to enroll in the Single Fee Program for three calendar years, 2019 through 2021, at a one-time cost of \$24 if they opted into the program by December 31, 2018, which was later revised to January 11, 2019. Customers who were in the PAC Card Program were converted automatically to the Single Fee Program. Single fee accounts have grown from 39,482 in CY 2017 to 192,325 in CY 2024. As of August 2025, the Parkways Authority has 201,271 active single fee accounts.

Single fee revenue grew substantially in 2019, exceeding \$6 million compared to nearly \$1.2 million in 2018. This was due in large part because of the three-year, \$24 incentive. However, single fee revenues dropped below \$1 million in 2020 and 2021 because those who

Single fee accounts have grown from 39,482 in CY 2017 to 192,325 in CY 2024. As of August 2025, the Parkways Authority has 201,271 active single fee accounts.

enrolled under the three-year incentive did not have to pay an annual fee in 2020 or 2021. Nevertheless, as Table 8 shows, the combined total expenses in 2020 and 2021 exceeded single fee revenues in those years by nearly \$6 million. Moreover, total expenses in 2023 and 2024 were higher than single fee revenues. In 2024, single fee revenues were only 78 percent of total expenses.

A primary reason for the significant growth in CSC expenses is labor costs as shown in Table 8. Labor expenses for fulltime permanent staff have risen by 231 percent from CY 2017 to 2024. As stated previously in Figure 2 above, staffing for Parkways' CSCs has grown from a total of 18 in 2017 to 65 through June 30th, 2025, which is a 261 percent increase.

Table 8
Single Fee Accounts and Revenue,
and Administrative Expenses of the Customer Service Center
Calendar Years 2017 - 2024

Fiscal Year	Single Fee Accounts	Single Fee Revenue	Labor	Postage/Office	Phone	Credit Card	Other	Total Expenses
2017	39,482	\$1,169,724	\$712,413	\$286,077		\$1,027,738	\$39,102	\$2,065,330
2018	75,393	\$1,197,787	\$756,126	\$126,061	\$104,980	\$996,824	\$76,765	\$2,060,756
2019	146,135	\$6,013,140	\$1,262,014	\$1,243,216	\$155,200	\$1,995,922	\$85,505	\$4,741,857
2020	150,281	\$724,756	\$986,852	\$157,450	\$146,520	\$2,042,085	\$27,751	\$3,360,657
2021	159,076	\$970,647	\$1,031,432	\$384,599	\$183,363	\$2,487,730	\$174,891	\$4,262,015
2022	168,372	\$4,315,493	\$1,060,785	\$602,319	\$200,586	\$1,848,611	\$71,964	\$3,784,265
2023	177,520	\$4,367,213	\$1,462,762	\$460,543	\$198,641	\$2,653,119	\$263,916	\$5,038,981
2024	192,325	\$4,390,588	\$2,356,825	\$534,970	\$281,055	\$2,140,184	\$328,781	\$5,641,816

Source: The West Virginia Parkways Authority.

Credit card expenses are incurred because the agency is charged a processing fee by the banks in which Parkways has its customers' pre-paid toll accounts. Also, credit card expenses are incurred from exchange settlement amounts with other toll agencies. When a motorist with a transponder issued by another toll agency travels through the Turnpike, the home toll agency will pay the toll due Parkways, but if a credit card is involved, then the home toll agency will be charged a fee by the credit card company. In this case, the home agency will charge Parkways a transaction fee for processing the away toll transaction to recover the credit card processing and handling costs it incurred. This process also occurs when motorists with transponders issued by Parkways go through an out-of-state toll system. Parkways will pay the away toll agency, but since it will be charged a fee by a credit card company, Parkways will pass that fee on to the away toll agency. Periodically, toll agencies will reconcile these fees with each toll agency for which it has toll transactions. In most cases, Parkways will incur net credit card expenses because more traffic flows through the Turnpike than West Virginia motorists with transponders travel through away toll agencies.

Labor expenses for fulltime permanent staff have risen by 231 percent from CY 2017 to 2024. As stated previously in Figure 2 above, staffing for Parkways' CSCs has grown from a total of 18 in 2017 to 65 through June 30th, 2025, which is a 261 percent increase.

Although the CSC is responsible for more than the Single Fee Program, the Parkways Authority does not classify expenses for the Single Fee Program separate from non-single fee expenses. The significance of this is that W. Va. Code §17-16A-6(a)(16) requires the Single Fee Program to charge a fee sufficient to pay the administrative expenses of the program. However, it is difficult to determine if the fee is sufficient when the program's expenses are comingled with other non-single fee expenses.

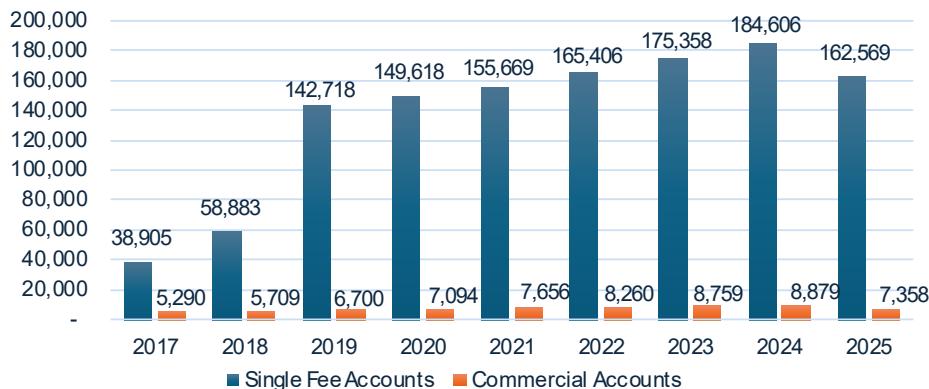
Most of the CSC Expenses Are Associated with the Single Fee Program

As stated previously, the expenses of the CSC, as listed in Table 8 above, are for all customer services, but evidence suggests that a high percentage of the costs are likely associated with the Single Fee Program. Figure 3 shows the average monthly number of active single fee and commercial accounts for calendar years 2017 through October 2025. Pay-by-Plate accounts are not included because they became available in September 2024. However, the average monthly number of Pay-by-Plate accounts for CY 2025 through October is 2,324. In each year from 2019 through 2025, active single fee accounts are approximately 95 percent of single fee and commercial accounts. Since single fee accounts are 95 percent of all active accounts, this suggests that related duties such as processing transponder requests, opening and closing accounts, responding to email and telephone inquiries, and assisting walk-in customers are mostly dealing with the Single Fee Program.

As stated previously, the expenses of the CSC, as listed in Table 8 above, are for all customer services, but evidence suggests that a high percentage of the costs are likely associated with the Single Fee Program.

Since single fee accounts are 95 percent of all active accounts, this suggests that related duties such as processing transponder requests, opening and closing accounts, responding to email and telephone inquiries, and assisting walk-in customers are mostly dealing with the Single Fee Program.

Figure 3
Monthly Average Active Single Fee and
Commercial Accounts
CY 2017 - 2025



Source: West Virginia Parkways Authority, Customer Service Monthly Reports.

An analysis of telephone calls also shows that CSRs are responding mostly to calls that are related to single fee accounts. The Parkways Authority uses a customer service telephone system called Ring Central that compiles data on the number of calls received and returned by CSRs, wait times, and the type of assistance being sought based on the selection of service prompts. Table 9 shows Ring Central data for the period of January 1, 2025, to August 31, 2025. Inbound are calls that came into the system and outbound are returned calls made by a CSR to customers. Most callers (77.7%) sought assistance concerning single fee or commercial accounts. Callers also called about notices they received concerning toll violations or unpaid tolls. These types of calls represented 15.8 percent of total calls. Calls for Pay-by-Plate accounts were 6.5 percent of all calls. Although calls for E-ZPass accounts comprise single fee and commercial accounts, most of these calls are likely for single fee accounts since they are 95 percent of all active accounts.

An analysis of telephone calls also shows that CSRs are responding mostly to calls that are related to single fee accounts.

Table 9
Ring Central Telephone Data
January 1, 2025, through August 31, 2025

	Total Inbound (Received)	Outbound (Returned Calls)	Total Calls	Percent of Total Calls
Total Calls	202,775	20,521	223,296	
E-ZPass (single fee & commercial)	159,175	14,286	173,461	77.7%
Notices (Toll Violations/Unpaid)	30,873	4,361	35,234	15.8%
Pay-by-Plate Accounts	12,727	1,874	14,601	6.5%

Source: West Virginia Parkways Authority, Ring Central data.

It is reasonable to estimate that 80 to 90 percent of CSC expenses are attributed to the Single Fee Program. These percentages are used in Table 10 to estimate how much of the Single Fee Program costs are covered by single fee revenue based on actual revenue and expenses. Using either percentage, single fee revenues are estimated to be insufficient to cover the administrative expenses of the program for most of the years from 2020 to 2024. As stated previously, the shortfall in revenue for 2020 and 2021 is the result of the three-year early enrollment incentive in which customers did not have to pay the annual single fee in those years.

It is reasonable to estimate that 80 to 90 percent of CSC expenses are attributed to the Single Fee Program.

Table 10
Estimates on Single Fee Program Expenses Covered by Revenues
for CY 2020 – 2024

Fiscal Year	Total Actual CSC Expenses	Actual Single Fee Revenue	80% of Total Expenses	Revenue Shortfall at 80%	90% of Total Expenses	Revenue Shortfall at 90%
2024	\$5,641,816	\$4,390,588	\$4,513,453	-\$122,865	\$5,077,634	-\$687,046
2023	\$5,038,981	\$4,367,213	\$4,031,185	\$336,028	\$4,535,083	-\$167,870
2022	\$3,784,265	\$4,315,493	\$3,027,412	\$1,288,081	\$3,405,839	\$909,655
2021	\$4,262,015	\$970,647	\$3,409,612	-\$2,438,965	\$3,835,814	-\$2,865,167
2020	\$3,360,657	\$724,756	\$2,688,526	-\$1,963,770	\$3,024,591	-\$2,299,835

Source: Actual Expenses and Single Fee Revenue, West Virginia Parkways Authority. Calculations by PERD.

Conclusions

SB 1003 of the 2017 first extraordinary session of the West Virginia Legislature made major changes to the operation of the Parkways Authority. The bill authorized the Parkways Authority to continue collecting tolls on the Turnpike, periodically raise toll rates, and issue bonds in which the proceeds can be used for road improvements on and off the Turnpike. In allowing toll collections to continue and be increased periodically, the bill required provisions be made to reduce the cost of traveling on the Turnpike. To accomplish this, Parkways was authorized to establish, if feasible, a Single Fee Discount Program that would allow cost savings for even infrequent travel on the Turnpike. To make the Single Fee Program readily available to residents throughout the state, the Parkways Authority was required to coordinate with the DMV to incorporate the program within the vehicle registration and renewal process. This provision has not been implemented by the Parkways Authority, and the reasons given by the agency are contrary to West Virginia Code according to a legal opinion from the Legislative Services Division.

Furthermore, Parkways is required to create the Single Fee Program Fund to receive all single fee revenue, and ensure that the fee is sufficient to cover the expenses of the program. The Single Fee Program Fund has not been created, and in 2020 and 2021, the single fee was clearly insufficient to cover the expenses of the Single Fee Program. Moreover, evidence suggests that single fee revenue did not cover the expenses of the program in other years. If Parkways incorporated the Single Fee Program into the DMV's vehicle registration process, as required by law, enrollment into the program may increase and alleviate the revenue shortfall. PERD makes the following recommendations.

If Parkways incorporated the Single Fee Program into the DMV's vehicle registration process, as required by law, enrollment into the program may increase and alleviate the revenue shortfall.

Recommendations

1. *In accordance with West Virginia Code §17-16A-6(a)(16) and §17A-10-17, the Parkways Authority should coordinate with the West Virginia Division of Motor Vehicles to make the Single Fee Program available to owners of motor vehicles in the state who opt into the program.*
2. *Pursuant to West Virginia Code §17-16A-6(a)(16), the Parkways Authority should propose rules for legislative approval, in consultation with the Division of Motor Vehicles, to add the single fee to the annual cost of registering or renewing registration of motor vehicles of those who opt into the Single Fee Program.*
3. *In accordance with West Virginia Code §17-16A-6(a)(16), the Parkways Authority should ensure that the rate of the single fee is sufficient to cover the administrative cost of the Single Fee Program.*
4. *As required by West Virginia Code 17-16A-11a, the Parkways Authority should create and administer the West Virginia Single Fee Program Fund to receive single fee revenues from owners of registered motor vehicles in the state or any other state that have opted in to a single fee program authorized by W. Va. Code §17-16A-6(a)(16). Revenues in the fund are to be used to maintain the Turnpike and for administrative costs related to a single fee program*
5. *In accordance with West Virginia Code §17A-2-25 and §17A-10-17, the Parkways Authority should enter into all necessary agreements with the Division of Motor Vehicles to collect the single fee and deposit the fees into the West Virginia Parkways Authority Single Fee Program Fund.*

Appendix A Transmittal Letters

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

**1900 Kanawha Blvd. East
Building 1, Room W-314
Charleston, WV 25305-0610
(304) 347-4890**



**John Sylvia
Director**

November 21, 2025

Chuck Smith, Executive Director
West Virginia Parkways Authority
3310 Piedmont Road
Charleston, WV 25306

Dear Director Smith:

This is to transmit a draft copy of the Performance Review of the West Virginia Parkways Authority. This report is tentatively scheduled to be presented during the January 11-13, 2026, interim meetings of the Joint Standing Committee on Government Organization. We will inform you of the time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to 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 at your office on one of the days from December 1 through December 3, 2025. Please notify us to schedule a day and time. In addition, we will need your written response to the report by noon on Wednesday, December 10, 2025, 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, January 8th, 2026, to make arrangements.

We request that your personnel not disclose the report to anyone unaffiliated with your agency. However, the Legislative Auditor advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,
The signature of John Sylvia, written in cursive ink.
John Sylvia

Enclosure
c: Etta Keeney, Director of Finance

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

**1900 Kanawha Blvd. East
Building 1, Room W-314
Charleston, WV 25305-0610
(304) 347-4890**



**John Sylvia
Director**

December 1, 2025

Stephen T. Rumbaugh, Cabinet Secretary
West Virginia Department of Transportation
State Capitol Complex, Building 5, Room A-109
1900 Kanawha Blvd. E
Charleston, WV 25305

Dear Secretary Rumbaugh:

This is to transmit a draft copy of the Performance Review of the West Virginia Parkways Authority. This report is tentatively scheduled to be presented during the January 11-13, 2026, interim meetings of the Joint Standing Committee on Government Organization. We will inform you of the time, date, and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to answer any questions committee members may have during or after the meeting. This draft report has also been transmitted to the West Virginia Parkways Authority on Friday, November 21st, 2025.

An exit conference has been scheduled with the Parkways Authority to discuss any concerns with the report. The meeting will be held at Parkways Authority's office at 3310 Piedmont Road, Charleston, at 10 a.m. on Monday, December 8th, 2025. In addition, we will need the agency's written response to the report by noon on Wednesday, December 10, 2025, for it to be included in the final report. We may be able to extend the date to receive your written response to noon on Friday, December 12, 2025.

We request that your personnel not disclose the report to anyone unaffiliated with your agency. However, the Legislative Auditor advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "John Sylvia".

John Sylvia

Enclosure

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 Parkways Authority as part of the Agency Review as authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, Section 7 of the *West Virginia Code*, as amended. The Parkways Authority is statutorily established by West Virginia Code §17-16A, et seq. to oversee the maintenance and management of the West Virginia Turnpike, which is a four-lane toll highway, 88 miles in length, from Charleston to Princeton, West Virginia.

Objective

The objective of this review is to examine if the Parkways Authority complied with the statutory requirements associated with implementing the Single Fee Program as authorized by West Virginia Code §17-16A-6(a)(16).

Scope

The scope of this review consisted of the Parkways Authority's Single Fee Program and the statutory requirements as stated in West Virginia Code §17-16A-6(a)(16). Since the Customer Service Center (CSC) administers the Single Fee Program and the law requires that the single fee is sufficient to pay the program's expenses, the scope included the revenue and expenses of the CSC. The period reviewed is from 2017, which is when the program was established in Code, to calendar year 2025. The agency's board meeting minutes were reviewed to gain an understanding of the timing and major decisions that went into implementing the Single Fee Program.

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. Testimonial evidence was gathered through interviews with the agency's staff and the West Virginia Division of Motor Vehicles to gain an understanding of how the Single Fee Program was implemented and administered through the CSC, and if the DMV has any concerns with incorporating the Single Fee Program in its annual vehicle registration and renewal process. Testimonial evidence was confirmed by written statements and in some cases by corroborating evidence. Site visits were made at each CSC facility in Charleston and Beckley West Virginia to observe the various CSC services and gain physical evidence. In some cases, the CSC processes were confirmed in writing. PERD determined that the information gathered through these sources and procedures was sufficient and appropriate.

PERD initially determined that the Parkways Authority had implemented a single fee program authorized by W. Va. Code 17-16A-6(a)(16). This was determined by examining the distinction between discount programs authorized by sections 6 and 29 of the agency's enabling statute, and reviewing the discount programs established by the agency. PERD noted that:

- Section 29 does not require an annual fee, while Section 6 does.
- Section 29 is for all classes of vehicles, while Section 6 is only for class 1, passenger non-commercial vehicles.
- Section 29 is described as a discount program for those who purchase a WV EZ-Pass transponder that still requires payment of a discounted toll at each toll plaza (§17-16A-29(c); while Section 6 is described as a single annual fee that allows motorists to traverse the Turnpike with no toll charges at any toll plaza.
- Section 29 does not require an evaluation study, while Section 6 does.

PERD reviewed the agency's current discount programs and determined that it has two distinct programs. The agency's single fee program requires an annual fee and allows travel through all toll plazas without being charged a toll, while its commercial EZ-Pass transponder discount program does not have an annual fee, and it requires a toll charge but at a discount rate. Therefore, PERD determined that the provisions of section 6 of the agency's enabling statute were required to be implemented. However, PERD found that several of the provisions were not implemented.

In discussing the criteria with the agency and inquiring as to why several provisions associated with section 6 had not been implemented, it was found that the agency believed that its single fee program was established under W. Va. Code 17-16A-29, which made the requirements under W. Va. Code 17-16A-6(a) (16) irrelevant. To resolve the disagreement, PERD requested a legal opinion from the Legislative Services Division within the Office of the Legislative Auditor. According to the legal opinion, it was determined that the Parkways Authority has established toll discount programs under both sections of Code. Therefore, according to the legal opinion, the statutory requirements under W. Va. Code 17-16A-6(a)(16) applies to the agency's Single Fee Program. PERD determined that the evidence was sufficient and appropriate.

PERD also gathered revenue data for the single fee program to determine if the single fee was sufficient to cover the costs of the program. Given the cost of the program and the number of single fee accounts, the revenue data appeared consistent. PERD also requested written confirmation that the data were for single fee revenue only. PERD requested cost data for the Customer Service Center (CSC) because it was the primary unit responsible for administering the Single Fee Program. However, the agency indicated that the costs were for managing all accounts including commercial and pay-by-plate, as well as reviewing vehicle images, and serving walk-in customers. The sufficiency and appropriateness of the cost data were evaluated by reviewing permanent full-time staff data from the State's central accounting system, Our Advanced Solution with Integrated Systems (OASIS), for the CSC. PERD also reviewed independent financial audits, the agency's internal audits, and budget estimates required by the bond covenants. Discussions were also conducted with the CSC director and the chief financial officer to understand various aspects of the CSC operating expenses. Such discussions were confirmed in writing. PERD determined that the CSC expenses were reasonably accurate, sufficient and appropriate for audit evidence.

The Office of the Legislative Auditor reviews the statewide single audit and the Division of Highways financial audit annually regarding any issues related to OASIS, the State's central financial system. The Legislative Auditor's staff requests and reviews on a quarterly basis any external or internal audit of OASIS. In addition, through its numerous audits, the Office of the Legislative Auditor continuously tests the OASIS financial information. Also, at the start of each audit, PERD asks audited agencies if they have encountered any issues of accuracy with OASIS data. The Parkways Authority did not identify any issues with the accuracy

of OASIS data, and PERD found no inconsistency between the agency's data and the OASIS data. Based on these actions, along with the audit tests conducted on audited agencies, it is our professional judgement that the information in OASIS is reasonably accurate for auditing purposes under the 2018 Government Auditing Standards (Yellow Book). However, in no manner should this statement be construed as a statement that 100 percent of the information in OASIS is accurate.

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



West Virginia Parkways

Authority

P.O. Box 1469

Charleston, West Virginia

25325-1469 Telephone:

304-926-1900

Fax: 304-926-1909

EZPass: 1-800-206-6222

www.wvturnpike.com

December 12, 2025

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

Dear Director Sylvia:

Thank you for providing the draft *Performance Review of the West Virginia Parkways Authority* dated November 21, 2025. We appreciate the efforts of your staff and the opportunity to participate in the review process.

As a follow-up to our recently completed exit conference, enclosed please find the Authority's formal written response to the audit findings and the discussions held during that meeting. We respectfully submit this information for inclusion in the final report scheduled for presentation to the Joint Standing Committee on Government Organization during the January 11–13, 2026 interim meetings.

Should any additional clarification or supporting documentation be needed as you finalize the report, please do not hesitate to contact me. The Authority will also coordinate with House Government Organization staff by the January 8, 2026 deadline should we determine that supplementary materials will be provided to committee members.

We appreciate your cooperation and the professionalism of your team throughout this review.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Smith".

Chuck Smith

Executive Director

West Virginia Parkways Authority

Enclosure

cc: Etta Keeney, WVPA
Theresa Hudnal, WVPA
Tyrone Gore, WVPA
Alan Cummings, WVPA
Dave Abrahms, Abrams & Byron
Peter Markham, Bowles Rice LLP
Tom Pearcy, Bowles Rice, LLP



West Virginia Parkways Authority

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December 12, 2025

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

Re: *Performance Review of the West Virginia Parkways Authority*

Dear Director Sylvia:

This is in response to the Performance Evaluation and Research Division's ("PERD") draft report on the West Virginia Parkways Authority ("Parkways") dated November 21, 2025 (the "Report"). Parkways has reviewed the Report thoroughly. As we discussed at Parkways headquarters on December 8, 2025, Parkways respectfully disagrees with the Report's determination that it was required to and did implement a single fee program under W. Va. Code § 17-16A-6(a)(16). Parkways also respectfully disagrees with the conclusion that it was required to satisfy the statutory requirements that correspond to the single fee program that is envisioned in § 17-16A-6(a)(16). Those requirements include: Consulting with the Division of Motor Vehicles ("DMV"); proposing rules for legislative approval to implement the single fee program; establishing a program fund; adding program fees to the annual cost of vehicle registration for those who opt-in to the program; and ensuring those fees are collected by DMV and deposited into the program fund.

In 2018, Parkways did consider implementing a single free program under § 17-16A-6(a)(16). However, following careful assessment, Parkways opted instead to implement a "single fee EZ Pass transponder discount program" under a separate provision of its Enabling Act; specifically, W. Va. Code § 17-16A-29. As explained in greater detail below, Enrolled Senate Bill 1003 (2017 1st Extraordinary Session) authorized Parkways to implement one of these program alternatives. *See, e.g.*, W. Va. Code § 17-16A-13a(a)(2) ("Parkways . . . may not increase any passenger vehicle rates, tolls or charges without establishing either a single fee program pursuant to [§ 17-16A-6(a)(16)] or a passenger motor vehicle unlimited use single fee EZ Pass transponder discount

program pursuant to [§ 17-16A-29]” (emphasis added). Parkways ultimately chose the latter option. It did not establish its single fee program under § 17-16A-6(a)(16).

This is confirmed by the Resolution that Parkways adopted on June 7, 2018. The Resolution approved changes to Parkways’ Tolling Policy and Toll Rate Schedule, amending Parkways’ discount programs and establishing a single fee EZ Pass transponder discount program that included a limited, one-time early enrollment option.

The Circuit Court of Kanawha County, West Virginia, has determined that the Tolling Policy and Toll Rate Schedule—which automatically adjusts tolls and fees for the single fee EZ Pass transponder discount program—was lawfully adopted by Parkways, in compliance with the public notice and meeting requirements set forth in W. Va. Code § 17-16A-13a (which are cross-referenced in § 17-16A-29). *See generally* Attachment A, Order, *Gearheart v. WV Parkways Authority*, Civil Action No. 21-P-457 (Oct. 16, 2024). In these circumstances, Parkways respectfully disagrees with PERD that § 17-16A-6(a)(16) has any applicability.

Importantly, Parkways’ single fee EZ Pass transponder discount program has been a resounding success. As a result of the EZ Pass discount program, (i) qualifying Toll Class 1 passenger motor vehicles (“Qualified Passenger Vehicles”) that are enrolled can now obtain an EZ Pass transponder for \$27.50 (plus the one-time transponder issuance fee of \$13) for unlimited use of the West Virginia Turnpike (the “Turnpike”) for one year, (ii) other classes of commercial and non-commercial vehicles enrolled in the EZ Pass discount program receive significant discounts on toll rates in accordance with the Tolling Policy and Toll Rate Schedule, and (iii) Parkways’ toll revenues increased from approximately \$95.3 million in the fiscal year ended June 30, 2017 to approximately \$179.7 million in the fiscal year ended June 30, 2024. Because Qualified Passenger Vehicles enjoy unlimited and toll-free use of the West Virginia Turnpike, a large portion of such revenues are derived from out-of-state commercial vehicles.

Further, the implementation of the single fee EZ pass transponder discount program, together with the increased toll revenues, afforded Parkways with the ability to issue its Series 2018 and 2021 Senior Lien Turnpike Toll Revenue Bonds (collectively, the “Bonds”). The issuance of the Bonds generated proceeds in excess of \$616.8 million. The proceeds were deposited into the State Road Construction Account (which was created by the Legislature in 2017 as part of Enrolled Senate Bill 1003) and were used to construct, improve, repair, and complete numerous road projects in southern West Virginia.

The development, implementation and operation of the single fee EZ Pass transponder discount program and the decision to issue the Bonds were not made hastily or without proper diligence. At all stages, Parkways sought and received the advice, feedback and counsel of various professional advisors, including from CDM Smith (a nationally recognized toll road consultant), Public Resources Advisory Group (the State’s independent financial advisor), HTNB (Parkway’s consulting engineer), Wells Fargo (the lead underwriter for the Bonds), bond counsel, Governor Justice, various members of the State’s Executive and Legislative branches, Parkways’ outside legal counsel, Parkways experienced directors and staff, and the Parkways’ board members.

Importantly, the Financial Summary Sheet at Attachment B shows that the single fee EZ Pass transponder discount plan operates on a cash-positive basis. The program netted \$1,434,321.76 from December 1, 2024 to November 30, 2025.

In-Depth Background

By proclamation dated May 3, 2017, Governor Jim Justice called the West Virginia Legislature to convene an extraordinary session to consider and act upon, among other things, a bill relating generally to Parkways. The Legislature designated the governor's proposed bill as Senate Bill 1003. Senate Bill 1003 was aimed at supporting the governor's "Roads to Prosperity" highway construction and repair initiative. Among other things, the bill sought to expand Parkways' bonding authority and to establish a State Road Construction Account in the State Treasury for the deposit of bond proceeds to fund the construction and maintenance of highways and bridges in certain counties.

The Legislature passed Senate Bill 1003 on June 16, 2017, and Governor Justice signed it into law on June 22, 2017. The bill was designated effective from passage. Significantly, and as the enrolled version of Senate Bill 1003's title reflects, the legislation required Parkways to adopt "*either a single fee program or [an] unlimited use single fee EZ Pass transponder discount program*" before instituting "any increase in vehicle rates, tolls or charges." *See* Enrolled Senate Bill 1003 (2017 1st Extraordinary Session) at p. 1:24-26 (emphasis added).

Enrolled Senate Bill 1003's amendments to § 17-16A-6(a)(16) of Parkways' Enabling Act authorized a "single fee program" option. An alternative "unlimited use single fee EZ Pass transponder discount program" option was authorized by the bill's amendments to § 17-16A-29 of the Enabling Act. With Enrolled Senate Bill 1003, *the Legislature gave Parkways the discretion to choose which program option to pursue* in launching the Roads to Prosperity initiative.

The § 17-16A-29 option authorized Parkways "to create a discount program for purchasers of West Virginia EZ Pass transponders." W. Va. Code § 17-16A-29(a). This EZ Pass discount program was required "to provide discounts for each class of motor vehicles." *Id.*

On June 7, 2018, Parkways adopted a Resolution that, among other things, approved "changes to [Parkways'] current tolling policy and toll rate schedule (including changes to its discount programs and establishing a *single fee discount program* that includes a limited (one time) early enrollment option)." *See* Parkways Resolution (June 7, 2018) at p. 1 (quoted language in all caps in original).

The Tolling Policy and Toll Rate Schedule that is attached to the Resolution as its Exhibit A explains that, beginning on January 1, 2019, the single fee discount program is available to customers driving a Toll Class 1 passenger motor vehicle who obtain a special transponder from Parkways for unlimited travel on the West Virginia Turnpike for one year for an annual fee of \$25 per vehicle, plus the costs of issuing a special transponder for that vehicle. The Tolling Policy and Toll Rate Schedule further explains the discounts that are available to Class II, III, and IV non-commercial vehicle EZ Pass customers, as well as commercial EZ Pass customers. Parkways clearly established its discount program under § 17-16A-29, not § 17-16A-6(a)(16).

Moreover, Parkways, its consultants, and its counsel all believed Parkways was establishing a discount program for purchasers of West Virginia EZ Pass transponders, pursuant to § 17-16A-29. Interpretations of statutes by bodies charged with their administration are given great weight unless clearly erroneous. Syl. Pt. 2, *Keener v. Irby*, 865 S.E.2d 519 (W. Va. 2021); *see also* Syl. P. 4, *Security Nat. Bank & Trust Co. v. First W. Va. Bancorp, Inc.*, 277 S.E.2d 613 (W. Va. 1981). Where a public agency's interpretation of a statute is at least as plausible as competing ones, there is little, if any, reason not to defer to the agency's construction. *Appalachian Power Co. v. State Tax Dept. of W. Va.*, 466 S.E.2d 424, 444 (W. Va. 1995).

As PERD is aware, under the Tolling Policy and Toll Rate Schedule the \$25 annual EZ Pass fee adjusts 5% for inflation every three years, beginning on January 1, 2022. The first automatic adjustment to toll rates and EZ Pass fees occurred on January 1, 2025. The Tolling Policy and Toll Rate Schedule serves three primary purposes: It combats inflation; increases revenues; and, most notably, enhances the Authority's bonding capacity for financing capital expenditures benefitting the State Road System and the Turnpike.

Parkways developed the Tolling Policy and Toll Rate Schedule in consultation with the State's financial advisor and traffic engineers. The periodic toll adjustments that are baked into the Tolling Policy and Toll Rate Schedule put Parkways in a solid debt service position. As a result, "Wall Street" (Standard & Poor's Global Ratings and Fitch Ratings) rated Parkways' creditworthiness favorably. Specifically, its bonds are rated AA-.

In 2018, Parkways issued, at Governor Justice's direction, approximately \$166.4 million in Senior Lien Turnpike Toll Revenue Bonds with a net original issue premium of approximately \$18 million. In 2021, Parkways issued, at Governor Justice's direction, approximately \$333.6 million in Senior Lien Turnpike Revenue Bonds with a net original issue premium of approximately \$90 million. The issuance of the Bonds generated proceeds of more than \$616.8 million. These proceeds, net applicable costs of issuance and related costs, were deposited into the State Road Construction Account and were used to construct, improve, repair, and complete numerous road projects in southern West Virginia.

In connection with the issuance of the Bonds, Parkways and United Bank, as Trustee, entered into a Master Trust Indenture dated August 1, 2018 (the "Master Trust Indenture"), pursuant to which the Series 2018 Bonds and Series 2021 Bonds were issued. The Master Trust Indenture contains a number of critical contractual obligations and limitations for the benefit and protection of the bondholders, including, without limitation, the pledge of net toll revenues, various operation and good repair covenants related to the Turnpike, budgeting covenants tied to the operation, maintenance, repair and replacement costs related to the Turnpike, a five-year capital plan (as certified by Parkways' consulting engineers), and toll rate covenants. Any violation, erosion or impairment of any of the contractual obligations and protections set forth in the Master Trust Indenture may be viewed negatively by the rating agencies, may have a material impact on bondholders, and could negatively impact Parkways' future borrowing costs and reduce its future bonding capacity.

Parkways services the debt on the Bonds with the net toll and fee revenues it collects operating the Turnpike. The Tolling Policy and Toll Rate Schedule is a critical component of this arrangement, as the toll and fee adjustments therein account for inflation and ensure that bondholders are paid.

To reiterate, the Circuit Court of Kanawha County, West Virginia, has determined that the Tolling Policy and Toll Rate Schedule was lawfully adopted, including its automatic adjustments to tolls and EZ Pass fees. This self-sustaining program has been a success.

Lastly, it should be highlighted that DMV has advised Parkways that DMV does not concur with PERD's legal analysis that Parkways was required to implement a single fee program under W. Va. Code § 17-16A-6(a)(16). DMV agrees with Parkways that it was authorized to implement an EZ pass transponder discount program under §§ 17-16A-29 and -13a. DMV, moreover, has expressed concerns to Parkways regarding the single fee program that is envisioned in § 17-16A-6(a)(16). It is Parkways' understanding that DMV has communicated these concerns to PERD as well. DMV believes, among other things, that the "opt in" aspect of the program, if it were added to DMV's mandatory vehicle registration process, would be difficult for DMV to manage, particularly with respect to out-of-state vehicles that DMV does not register. DMV also agrees with Parkways that the single fee program that is envisioned in § 17-16A-6(a)(16) creates a constitutional problem; that is, DMV's collection of program fees—which are committed to servicing the debt on Parkways' Bonds—would undermine Parkways' statutory independence from the State in the bond context and the statutory mandate for Parkways to collect toll and fee revenues, which allows the State (including DMV) to avoid the constitutional prohibition against incurring debt. Parkways believes DMV's collection of program fees also could violate certain covenants in the Master Trust Indenture. In short, it does not appear that DMV may collect program fees under controlling law and contract; only Parkways can.

Conclusion

For the forgoing reasons, Parkways respectfully disagrees with PERD's determination that Parkways was required to or did implement a single fee program under W. Va. Code § 17-16A-6(a)(16). Parkways carefully considered that option in 2018, but did not pursue it in view of feasibility, efficiency, and constitutional concerns. Parkways also respectfully disagrees that it was required to satisfy the statutory requirements that correspond to the single fee program that is envisioned in § 17-16A-6(a)(16). Parkways implemented, administers, and operates an "unlimited use single fee EZ Pass transponder discount program" under § 17-16A-29. The program is self-sustaining and does not require any State funding. It has been a resounding success.

Respectfully submitted by,



Chuck Smith
Executive Director
West Virginia Parkways Authority

Attachment B

WVPA
Single Fee EZ Pass Transponder Discount Plan
Financial Summary Sheet

Total number of Single Fee EZ Pass Transponder Discount Plan Users as of 11/30/25	205,562
Single Fee EZ Pass Transponder Discount Plan	\$ 5,652,955.00

Budget for 100% of Customer Service Department Staffing

Salaries	\$ 2,905,000.00
FICA	\$ 222,000.00
Retirement	\$ 261,000.00
Health Insurance	<u>\$ 660,000.00</u>
**Total Budget for CSC Staffing \$ 4,048,000.00	

Credit Card Transaction Fee Cost

Single Fee EZ Pass Transponder Discount Plan Credit Card Transactions	137,399
CardConnect Processing Fee \$0.025	\$3,434.98
Huntington Bank Transaction Fees (MC/ Visa / Discover) \$0.15	\$20,274.75
Huntington Bank Transaction Fees (MC/ Visa / Discover) 0.017	\$67,355.79
Huntington Bank Transaction Fees (Am Exp) \$0.05	\$459.55
Huntington Bank Transaction Fees (Am Exp) 0.0225	<u>\$6,224.40</u>
Total Cost for Single Fee EZ Pass Transponder Discount Plan Credit Card Processing \$ 97,749.46	

Mailing Renewal Cost

Envelopes	\$19,000.00
Postage	\$52,081.00
Paper	<u>\$1,800.00</u>
Total Cost of Single Fee EZ Pass Transponder Discount Plan Mailing Renewals \$ 72,881.00	

Texting Renewal Notification Cost

Single Fee EZ Pass Transponder Discount Plan Renewal Notice Text/SMS Notifications	448
SMS Message per message \$0.0062	<u>\$2.78</u>
Total Cost Single Fee EZ Pass Transponder Discount Plan Texting Renewal Notification \$ 2.78	

Total Revenue \$ 5,652,955.00	
Total Single Fee EZ Pass Transponder Discount Plan Direct Costs \$ 4,218,633.24	
Net Position \$ 1,434,321.76	

**Cost estimates are based on program data collected from December 1, 2024 through November 30, 2025.*

*** Includes costs associated for entire CSD staff for all transaction/account types.*

Appendix I

West Virginia Turnpike Personal Discount Plans

West Virginia Turnpike Personal Discount Plans¹



DISCOUNT PLAN #1 – WV E-ZPASS

Do you use the WV Turnpike more than 3 times a month? Then this plan can save you **money\$\$\$** If you are a daily commuter driving to and from work, school, etc. and are a frequent user of the Turnpike, THIS PLAN IS FOR YOU! (formerly "PACC" or "PAC" Card Program).

- **COST:** **\$25/quarter**–Per Mainline Toll Plaza for UNLIMITED TRAVEL! **OR**
\$95/year – Per Mainline Toll Plaza for UNLIMITED TRAVEL! **OR**
\$5/year – North Beckley Plaza Only – UNLIMITED TRAVEL!
- **SAVINGS:** Provides up to a **90% savings** in toll rates for the high frequency user and the cost may be eligible for deduction from WV income for tax purposes (consult your tax advisor).
- **CONVENIENCE:** No stopping to pay toll and North Beckley Plaza (Route 19) is free with the purchase of a mainline plan.
- **RESTRICTIONS:** No residency restrictions; this rate only for passenger cars, vans and pickup trucks.

DISCOUNT PLAN #2 – WV E-ZPASS

Do you use the WV Turnpike at least 3 times a year? Then this plan can save you **money\$\$\$** If you drive on the West Virginia Turnpike occasionally but still want to receive a discount, THIS PLAN IS FOR YOU!

- **COST:** **\$5/year** for a **West Virginia E-ZPass** account – then pre-pay funds via credit card into the account (\$20.00 minimum) and as you pass through a mainline toll plaza, **\$1.30** (passenger car rate) will automatically be deducted from your account. Credit card replenishes the balance by \$20.00 each time your account falls below \$10.00.
- **SAVINGS:** Provides up to a **35% savings** in toll rates (**or \$.70 each time you pass through a mainline toll plaza**) and the cost may be eligible for deduction from WV income for tax purposes (consult your tax advisor.)
- **CONVENIENCE:** No stopping to pay tolls and North Beckley Plaza (Route 19) is free.
- **RESTRICTIONS:** No residency restrictions; this rate only for passenger cars, vans and pickup trucks.

West Virginia Parkways Authority

Appendix II**Legal Opinion****Legislative Services Division Within the Office of the Legislative Auditor****INTERNAL MEMORANDUM**

TO: John Sylvia, Director, Performance Evaluation and Research Division (PERD)

FROM: Legislative Services Division

RE: Legal Opinion: Single Fee Program, Parkways Authority

DATE: June 4, 2025

A letter of May 21, 2025, requested an opinion concerning §§17-16A-6(a)(16), 17-16A-11a and 17A-10-17 of this code. Your letter raises the following legal questions:

1. **Has the Parkways Authority implemented a single fee program pursuant to West Virginia Code §17-16A-6(a)(16)?**

§17-16A-6(a)(16) reads, in pertinent part:

(a) The Parkways Authority is hereby authorized and empowered:

(16) To study, investigate, evaluate and, if feasible, develop and implement a “single fee” program the purpose of which is to charge a flat fee to owners of motor vehicles registered in this state who opt into any such program or any other state which opts into any such program: Provided, That any single fee program shall apply only to passenger motor vehicles, divided into classes based on size and usage, and shall not apply to commercial motor vehicles. The flat fee shall be set by the authority at a rate or amount so that the aggregate of all toll revenues estimated to be received by the authority at the time of fixing any such rate or amount, or any increase thereof, provides sufficient toll revenues consistent with the purposes set forth in section thirteen [§17-16A-13] of this article and to cover the administrative costs of any such single fee program. The separate fee shall be collected by adding it to the annual cost of vehicle registration as an additional fee payable solely to the authority pursuant to section seventeen, [§17A-10-17] article ten, chapter seventeen-a of this code. A registered motor vehicle for which such single program fee has been paid shall be entitled to traverse all toll roads within the state without stopping to pay individual tolls during the effective period of said vehicle registration. The single fee program may also include comparable provisions which would allow vehicles registered in other states to traverse West Virginia toll roads in like fashion to West Virginia vehicles as set forth in this section upon the payment of a single fee for each and every vehicle registered in such state, in accordance with the same classification system adopted for West Virginia vehicles. The Parkways Authority, in consultation with the Division of Motor Vehicles, shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement any single fee program under this subdivision (16).

On January 7, 2019, WSAZ published an article which referenced that West Virginia had offered EZPass transponders for tolls on the West Virginia Turnpike since at least 2000.¹

During the 2006 regular session, Senate Bill 557 passed which authorized the Parkways Authority to create a discount program for purchasers of West Virginia EZ Pass transponders. SB557 defined a West Virginia EZ Pass transponder as “a device sold by the parkways authority which allows the purchaser to attach the device to his or her motor vehicle and travel through a Parkways toll facility and be billed for such travel by the authority”. The definition of transponder was amended in 2017 by striking the term “sold” and replacing it with a devise “issued” by the Parkway Authority.

¹ <https://www.wsaz.com/content/news/How-to-save-money-on-WV-Turnpike-478095983.html>

During the 2010 regular session Senate Bill 427 passed which amended §17-16A-6(a)(16) which read, in pertinent part:

(a) The Parkways Authority is hereby authorized and empowered:

(16) To investigate and, if feasible, develop and implement a “single fee” program which would produce on an annual basis a sum of money equal to the total toll revenue received from all West Virginia drivers on West Virginia toll roads during the Authority’s preceding fiscal year, divided into at least three classes based upon usage, size and number of axles. Said sum, plus an amount necessary to cover the expected costs of such program, shall be produced by adding to either the annual cost of vehicle registration or of vehicle inspection a single fee equal to the proportionate share of that vehicle owner of the total toll revenue needed to be produced from all vehicles within that class. A vehicle for which such fee has been paid shall be entitled to traverse all toll roads within the state without stopping to pay individual tolls during the effective period of said registration or said inspection: *Provided, however,* That if the single fee proposed to be charged under said program exceeds the standard round trip toll for that vehicle over the entire length of the West Virginia Turnpike, the Authority shall not implement such program without the prior approval of both Houses of the Legislature: *Provided, further,* That any such program shall also include comparable provisions which would allow vehicles registered in other states to traverse West Virginia toll roads in like fashion to West Virginia vehicles as set forth in this section upon the payment of a single fee for each and every vehicle registered in such state, in accordance with the same classification system adopted for West Virginia vehicles.

Sometime between March 11, 2006, and prior to 2017, the Parkways Authority created a personal discount transponder program which was formally known as “PACC” or “PAC” Card Program. This program charged varying fees depending on the plan chosen and was only available to passenger vehicles.

During the 2017 First Extraordinary Session, Senate Bill 1003 passed which amended §17-16A-16(a)(16) and authorized the Parkways Authority, under §17-16A-6(a)(16), to study, investigate, evaluate, and if feasible, develop and implement a single fee program.

The Parkways Authority, pursuant to §17-16A-13a, provided notice of a public meetings in 2018 before proposed toll rate changes to the tolls charged on the West Virginia Turnpike and before proposed issuance of toll revenue bonds, including and regarding proposed toll rate increases and a proposed single fee discount program for Toll Class 1 passenger motor vehicle. On April 5, 2018, the Parkways Authority held a meeting where they received and accepted, by resolution adopted, reports, studies, information, recommendations, findings and analyses regarding toll changes including the proposed single fee discount program and the limited one-time program. Pursuant to §17-16A-6(a)(16), a study by the Parkways Authority’s Traffic Engineer (CDM Smith Inc.), entitled “West Virginia Turnpike 2018 Revenue Bond Study” (the “CDM Smith Traffic Revenue Study”) was received and accepted. The CDM Smith Traffic Revenue Study was in regard to:

“recent transaction and revenue trends on the Turnpike and to develop traffic and revenue forecasts for the Turnpike under current toll rates and schedules, as well as under various increased levels of passenger car and commercial vehicle toll rates, including, without limitation, a proposal that would, (i) beginning in calendar year 2019, double the current toll rates for all classes of vehicles (except Toll Class 1 passenger motor vehicles adopting the Single Fee Discount Program defined below) and, beginning in calendar year 2022 and subject to rounding, include toll rate increases nominally at 1.6% annually and (ii) implement a single fee discount program, as authorized under Section 29 and other applicable provisions of the Act (the “Single Fee Discount Program”), under which a user driving a Toll Class 1 passenger motor vehicle may obtain unlimited travel on the Turnpike for an annual fee of \$25 per year, plus applicable costs of issuing the special transponder required for such vehicle, provided, that, this program would include a limited (one-time) early enrollment option (the “Limited (One-Time) Early Enrollment Option”, and together with the Single Fee Discount Program, the “Proposed Single Fee Discount Program”) under which a customer driving a Toll Class 1 passenger motor vehicle may enroll early (by December 31, 2018) in the Single Fee

Discount Program and obtain unlimited travel on the Turnpike in calendar years 2019, 2020 and 2021 for a one-time payment of \$24, plus applicable costs of issuing the special transponder required for such vehicle to participate in such Limited (One-Time) Early Enrollment Option.”²

Pursuant to §17-16A-6(a)(16) of this code, a single fee discount plan was offered in 2018 for the calendar years 2019, 2020, and 2021. This single fee discount plan was updated on January 1, 2022, when the Parkways Authority offered a single fee discount plan for \$39.25 annually. This included \$26.25 for the single fee discount plan and a one-time charge of \$13.00 for the EZPass transponder. The single fee discount plan was, and is currently, only valid on Toll Class 1 vehicles, which are 7'6" or less in height, not more than 8,000 lbs., no more than two axles, and not used for commercial or business purposes.³

Currently the account types offered by the Parkways Authority include an individual EZPass account which requires the single fee discount plan and a transponder; a commercial EZPass account offered at a discounted rate and requires a transponder; and a plate-by-plate account which automatically bills a credit card on file.⁴

While transponders have been in use since at least the year 2000, it appears a single fee discount plan charging a flat fee to passenger motor vehicles was not available until January 1, 2019, pursuant to §17-16A-6(a)(16) of this code. While the Parkways Authority had the authorization to implement a single fee program after investigation since 2010, they appear to not have done so until after Senate Bill 1003 passed. After Senate Bill 1003 passed, the Parkways Authority, pursuant to §17-16A-6(a)(16) of this code, had their traffic engineer investigate, study, and evaluate if a single fee program was feasible. On April 5, 2018, the Parkways Authority held a meeting where they received and accepted reports, studies, information, recommendations, findings and analyses regarding toll changes including the proposed single fee discount program and the limited one-time program, including the study by their traffic engineer. Based on this study, the Parkways Authority implemented the single fee program beginning in 2019.

2. Should the Division of Motor Vehicles (DMV) be collecting an additional fee payable upon the issuance of each certificate of registration and renewal for owners of motor vehicles registered in this state who opt into any single fee program implemented by the Parkways Authority pursuant to West Virginia Code §17-16A-6(a)(16)?

§17A-10-17. Fee for West Virginia Parkways Authority Single Fee Program.

In addition to each fee provided in this article, an additional fee for any single fee program that may be implemented by the West Virginia Parkways Authority pursuant to section six, [§17-16A-6] article sixteen-a, chapter seventeen of this code shall be payable upon the issuance of each certificate of registration and renewal thereof issued pursuant to article three [§§17A-3-1 *et seq.*] of this chapter. The Division shall collect and deposit all the additional fees into the West Virginia Parkways Authority Single Fee Program Fund created in section eleven-a, [§17-16A-11a] article sixteen-a, chapter seventeen of this code. The additional fee provided herein may be imposed for each application for such certificate and renewal thereof made on or after July 1, 2017.

Pursuant to §17-16A-6(a)(16) of this code, a separate fee shall be collected by adding it to the annual cost of vehicle registration as an additional fee payable solely to the authority pursuant to §17A-10-17 of this code. Additionally, §17A-10-17 of this code clarifies that the Division of Motor Vehicles shall collect and deposit all the additional fees into the West Virginia Parkways Authority Single Fee Program Fund created in §17-16A-11a of this code. According to the language of the above referenced sections, the Division of Motor Vehicles is required and should be collecting an additional fee payable upon the issuance of each certificate of registration and renewal for owners of motor vehicles registered in this state who opt into any single fee program implemented by the Parkways Authority and should be depositing all the additional fees into the West Virginia Parkways Authority Single Fee Program Fund.

² Notice of Public Meeting Before Proposed Toll Rate Changes and Proposed Issuance of Toll Revenue Bond

³ <https://search.app/RBQ5EYHsw5BEFAmx6>

⁴ <https://www.ezpasswv.com/sign-up>

3. Should there be the creation of the Parkways Authority Single Fee Program Fund by the Parkways Authority pursuant to §17-16A-11a?

§17-16A-11a. West Virginia Parkways Authority Single Fee Program Fund.

There is hereby created within the State Treasury a special account within the State Road Fund, designated the West Virginia Parkways Authority Single Fee Program Fund. The account shall consist of any fees received from owners of registered motor vehicles in the state or any other state that have opted in under any single fee program that may be created and implemented by the authority pursuant to section six of this article. The account shall be administered by the Parkways Authority and expenditures from the fund shall be used exclusively by the authority for the purposes authorized in section thirteen of this article and for administrative costs related to any single fee program implemented by the Parkways Authority under subdivision (16), subsection (a), section six [§17-16A-6] of this article.

Being that the Parkway Authority appears to have implemented a single fee program in 2019 pursuant to §17-16A-6(a) (16) of this code, §17A-10-17 of this code requires the Division of Motor Vehicles to collect an additional fee payable upon the issuance of each certificate of registration and renewal for owners of motor vehicles registered in this state who opt into any single fee program implemented by the Parkways Authority and deposit all the additional fees into the West Virginia Parkways Authority Single Fee Program Fund created in §17-16A-11a of this code. Accordingly, the Parkways Authority should have created within the State Treasury a special account with the State Road Fund, designated the West Virginia Parkways Authority Single Fee Program Fund.

4. Should the DMV, under W. Va. Code §17A-10-17, be depositing the additional fees for any single fee authorized under W. Va. Code §17-16A-6(a)(16) into the Parkways Authority Single Fee Program Fund created pursuant to §17-16A-11a?

Being that the Parkway Authority appears to have implemented a single fee program in 2019 pursuant to §17-16A-6(a) (16) of this code, §17A-10-17 of this code requires the Division of Motor Vehicles to collect an additional fee payable upon the issuance of each certificate of registration and renewal for owners of motor vehicles registered in this state who opt into any single fee program implemented by the Parkways Authority and deposit all the additional fees into the West Virginia Parkways Authority Single Fee Program Fund created in §17-16A-11a of this code. Accordingly, the Division of Motor Vehicles should be depositing the additional fees for the single fee program into the Parkways Authority Single Fee Program Fund.

5. Should there be legislative rules promulgated by Parkways, in consultation with the DMV, in the implementation of any single fee program pursuant to W. Va. Code §17-16A-6(a)(16)?

The Parkways Authority, in consultation with the Division of Motor Vehicles, is required to propose rules for legislative approval to implement any single fee program under §17-16A-6(a)(16) of this code. The failure to propose rules appears to have created a lack of transparency in the administration of the single fee program implemented in 2019.

Conclusion

As concluded in this opinion pursuant to relevant code sections and amendments thereto, and publicly available information, the Parkways Authority implemented a single fee program under §17-16A-6(a)(16) of this code beginning in 2019 and, at that time, should have created the Parkways Authority Single Fee Program Fund and promulgated legislative rules in consultation with the Division of Motor Vehicles. Accordingly, the Division of Motor Vehicles should have been collecting an additional fee payable upon the issuance of each certificate of

registration and renewal for owners of motor vehicles registered in this state who opt into any single fee program implemented by the Parkways Authority pursuant to §17-16A-6-(a)(16) of this code and deposit all the additional fees into the West Virginia Parkways Authority Single Fee Program Fund created in §17-16A-11a of this code.

Agency Response

§17-16A-29. Discount program for purchasers of West Virginia EZ Pass transponders.

- (a) The Parkways Authority is hereby authorized to create a discount program for purchasers of West Virginia EZ Pass transponders: *Provided*, That prior to the fixation of any initial rates, tolls or charges or any increase in any rates, tolls or charges along any portion of the parkway project, the Parkways Authority may create a discount program for purchasers of West Virginia EZ Pass transponders. Any discount program created pursuant to this section shall provide discounts for each class of motor vehicles: *Provided, however*, That any single fee program implemented by the authority pursuant to subdivision (16), subsection (a), section six of this article shall apply only to passenger motor vehicles.
- (b) The authority shall provide public notice and hold a public meeting on any proposed discount program as required in section thirteen-a of this article prior to implementation of such program.
- (c) For purposes of this section, a “West Virginia EZ Pass transponder” means a device issued by the Parkways Authority which allows the purchaser to attach the device to his or her motor vehicle and travel through a Parkways Authority toll facility and be billed for such travel by the authority.

The Parkways Authority argues that §17-16A-29 of this code authorizes them to establish a discount program for purchasers of EZPass transponders. While this is an accurate statement, it is irrelevant to the issue at hand as it refers to transponders, and not single fee programs.

§17-16A-13a reads, in pertinent part:

- (a) Notwithstanding any provision of the law to the contrary, on and after the effective date of the amendment and reenactment of this section in 2017, the Parkways Authority is authorized after prior public notice and meeting, as set forth in this section, to:
 - (1) Fix initial rates, tolls or charges along any portion of a parkway project and fix fees for any single fee program implemented in accordance with section six of this article including, without limitation, fixing initial rates, tolls or charges that may be subject to adjustment or escalation from time to time, or approve any proposal or contract that would require the Parkways Authority to fix any initial rates, tolls or charges along any portion of a parkway project or any fees under any single fee program;
 - (2) Increase any rates, tolls or charges along any portion of the parkway project, increase fees for any single fee program implemented in accordance with section six of this article, or approve any proposal or contract that would result in or require an increase in any rates or tolls along any portion of the parkway project or any fees under any single fee program: *Provided*, That the Parkways Authority may not increase any passenger vehicle rates, tolls or charges without establishing either a single fee program pursuant to subdivision (16), subsection (a), section six of this article or passenger motor vehicle unlimited use single fee EZPass transponder discount program pursuant to section twenty-nine of this article: *Provided, however*, That the program shall extend at least through the period that any rates, tolls or charges are imposed: *Provided further*, That the single annual fee proposed to be charged under either such program may not exceed:

(A) An amount of \$25 per year: Provided, That the Parkways Authority may adjust this amount every three years: Provided, however, That an increase in such amount may not exceed five percent of the amount at each adjustment; and

(B) A usage fee for the EZ Pass transponder, radio frequency identifying tag or other device issued by the Parkways Authority to participate in such program, which fee shall not exceed the actual cost of issuing such device;

The Parkways Authority argues that pursuant to §17-16A-13a of this code, the Authority is required to establish either a single fee program under §17-16a-6(a)(16) or an unlimited use single fee transponder discount program pursuant to §17-16A-29. They then argue that in 2018 they elected to implement the transponder discount program and as a result are not required to create a special account within the State Road Fund and DMV-administered revenue collections do not apply. This interpretation of the statute is flawed. §17-16A-13a(a)(1) clarifies that after prior public notice and meeting, the Parkways Authority may increase passenger vehicle rates, tolls, or charges but only after they have either implemented a single fee program pursuant to §17-16a-6(a) or a passenger motor vehicle unlimited use single fee EZPass transponder discount program pursuant to §17-16A-29. Again, this argument is irrelevant to the issue at hand. Electing to implement the transponder discount fee program under §17-6A-13a of this code provided the Parkway Authority the authorization to increase rate, tolls or charges for passenger rate vehicles. It did not exempt the Parkways Authority from their legal duty to follow the legal requirements provided in §§17-16A-6(a)(16), 17-16A-11a and 17A-10-17 of this West Virginia code.

This opinion is based upon a review of the relevant code sections and amendments thereto, and publicly available information. If you are aware of other material facts that may have a bearing on this analysis, please contact me for further review.

Appendix III

Three Customer Service Facilities Located in Beckley, West Virginia

Three Customer Service Facilities Located in Beckley, West Virginia



**Customer Service Center
The Main Beckley Office at 12 Pikeview Drive**



**Customer Service Centers, Beckley South Annex
George Street, Beckley, West Virginia**



WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION



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