

STATE OF WEST VIRGINIA  
AUDIT REPORT  
OF

WEST VIRGINIA DIVISION OF LABOR  
FOR THE PERIOD  
JULY 1, 1986 - JUNE 30, 1994



OFFICE OF LEGISLATIVE AUDITOR  
CAPITOL BUILDING  
CHARLESTON, WEST VIRGINIA 25305

WEST VIRGINIA LEGISLATURE  
Joint Committee on Government and Finance



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CHARLESTON, WEST VIRGINIA 25305

The Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the accounts of the West Virginia Division of Labor.

Our examination covers the period July 1, 1986 through June 30, 1994. The results of this examination are set forth on the following pages of this report.

Respectfully submitted,

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

Theford L. Shanklin, CPA, Director  
Legislative Post Audit Division

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WEST VIRGINIA DIVISION OF LABOR

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WEST VIRGINIA DIVISION OF LABOR

EXIT CONFERENCE

We held an exit conference on July 6, 1995 with the Deputy Commissioner and the Director of Administration of the West Virginia Division of Labor and all findings and recommendations were reviewed and discussed. The Division's responses will follow at a later date.

## WEST VIRGINIA DIVISION OF LABOR

### INTRODUCTION

The State Bureau of Labor was created by an Act of the Legislature in 1889 and renamed the Department of Labor in 1915. In 1989, under the reorganization of the Executive Branch of State Government, Chapter 3, Acts of the 1989 Legislature, the Department of Labor became the Division of Labor under the Department of Commerce, Labor and Environmental Resources. The Division of Labor is currently governed by Chapter 21, Articles 1, 1B, 3, 3B, 3C, 5, 5A, 5C, 9, 11, and 12, and Chapter 47, Articles 1, 1A, 5, and 11B of the West Virginia Code, as amended. The Division is also governed by Legislative Rules Title 28, Series 1 and 2 and Title 42, Series 1 through 21.

The Division of Labor was created "to protect the lives and health, and to promote the prosperity" of workers in West Virginia. Services to accomplish this goal are provided through five sections. These sections and their respective duties are presented below:

#### Wage and Hour Section:

1. Licenses contractors doing business in West Virginia.
2. Secures employer's bond for wage and benefits in mining and construction, and transportation in mineral industries.
3. Assures compliance with the state minimum wage law by a business where six or more persons are employed and the gross business is \$500,000 or less.
4. Enforces statutes regarding the maximum hours worked before overtime is due.

5. Collects data and issues the fair minimum wage rates to be paid in each county for highway construction, heavy construction, and building construction.
6. Certifies the licensing of all private employment agencies.
7. Approves all age certificates and work permits issued to minors by school authorities.
8. Mediates labor disputes when requested by both parties.
9. Assists in the collection of unpaid wages.
10. Tests polygraph examiner applicants and issues state licenses for practice in West Virginia.

**Weights and Measures Section:**

1. Operates a measurement laboratory/calibration station.
2. Tests and approves all scales used in weighing, ranging from small grocery store scales to heavy truck and live-stock scales.
3. Tests and approves measuring devices, such as gasoline pumps, meters, and measure-graphs.
4. Tests and calibrates tank trucks and farm milk tanks.
5. Inspects and tests motor fuels for quality.
6. Inspects commodities in stores to ensure fair packaging and labeling.
7. Receives and investigates complaints about short-weight or short-measure products.
8. Issues licenses to manufacturers and sellers of article of bedding and upholstered furniture.
9. Inspects establishments selling articles of bedding and upholstered furniture.
10. Issues license to businesses for closeout sales, fire sales, and defunct business sales.
11. Certifies weights and measures repair persons.

#### Safety and Boilers Section:

1. Conducts on-site consultations to provide employers with free analysis and advice on eliminating work place hazards and in understanding requirements of the Occupational Safety and Health Act. This service is funded by a grant from the United States Department of Labor, and no fee is charged to the employer. No citations or penalties are issued for violations identified.
2. Enforces the Steam Boiler Inspections Law, which requires boilers of 15 or more pounds pressure per square inch to be inspected at least annually and obtain a state-issued permit to operate.
3. Enforces the State Occupational Safety and Health Act, which provides work place safety and health for most State employees.

#### Elevator Safety Section:

1. Performs safety inspection on all elevators in West Virginia available for public use.
2. Issues permits to operate an elevator.
3. Approves design plans for relocation of elevators.
4. Provides West Virginia examination and issuance of a certificate of competency to persons desiring to become elevator inspectors.
5. Works with counties and municipalities on functions related to the elevator safety law.
6. Performs safety inspections on all chair lifts and dumb-waiters in the State.
7. Works with companies servicing elevators in West Virginia for code compliance.

#### Manufactured Housing and Amusement Rides:

1. Enforces federal HUD construction and reporting standards for manufactured homes delivered to West Virginia for retail sale.
2. Licenses all dealers, installation/repair contractors, and manufacturers who conduct business in West Virginia.
3. Inspects manufactured home for compliance with both Federal and State code requirements for construction and safety.

4. Responds to consumer complaints through code enforcement and a mandated administrative relief process.
5. Maintains a cash trust designated to compensate a consumer upon the exhaustion of all other legal remedies.
6. Inspects all amusement rides and amusement attractions for safety and health when such devices are available for public use.
7. Issues certificates to operate amusement devices.
8. Maintains records on each amusement device operating in West Virginia with particular emphasis on liability insurance requirements.
9. Inspect tramways.

WEST VIRGINIA DIVISION OF LABOR  
ADMINISTRATIVE OFFICERS AND STAFF

The present Division of Labor staff consists of 78 employees. All employees are covered by the West Virginia Division of Personnel except the Commissioner, Deputy Commissioner, Fiscal Officer, Executive Secretary, and Section Directors.

During the period covered by the audit, the Division was under the following commissioners:

|                            |                                      |
|----------------------------|--------------------------------------|
| Jess T. Shumate . . . . .  | February 18, 1985 - July 21, 1987    |
| W. F. Carmichael . . . . . | July 22, 1987 - January 10, 1989     |
| Roy M. Smith . . . . .     | January 16, 1989 - February 28, 1994 |
| Shelby Leary . . . . .     | June 1, 1994 - Present               |

The Section Directors at the close of the audit were as follows:

|                               |                                  |
|-------------------------------|----------------------------------|
| Mitchell W. Samples . . . . . | Director of Administration       |
| Steven A. Allred . . . . .    | Director of Wage and Hour        |
| Karl H. Angell, Jr. . . . .   | Director of Weights and Measures |
| Jennifer W. Burgess . . . . . | Director of Safety and Boiler    |
| William D. Hoffman . . . . .  | Director of Manufactured Housing |
| Ray Pauley . . . . .          | Director of Elevator Safety      |

WEST VIRGINIA DIVISION OF LABOR

SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES

Workers Compensation and Sick Leave

1. The amounts employees are paying for the buy back of sick leave used while waiting for Workers' Compensation temporary total benefits are not in compliance with Chapter 23, Article 4, Section 1 of the West Virginia Code. Also, if the statute is followed, the amounts due for the buy back are less than the State's outlay for the sick leave.

We recommend the Division of Labor comply with Chapter 23, Article 4, Section 1 of the West Virginia Code. We also recommend the Division receive payment from the employee who under-paid the Division of Labor and issue a refund to those employees who overpaid the Division. We suggest to the West Virginia Legislature the Code reference be reviewed for possible amendment to be changed to include total reimbursement of the State's outlay for restoration of sick leave benefits. (See Pages 15-18.)

Reimbursement to the General Revenue  
Personal Services Account

2. We noted the General Revenue payroll account, from which all employees are paid, is being reimbursed from other special revenue accounts in the Division of Labor in

percentages that are not reflective of the number of specific activities conducted. Our examination indicated the General Revenue Fund has been over reimbursed approximately \$220,000.00.

We recommend the Division develop time sheets which measure in hours how much time is spent on General Revenue Fund functions and Contractor Licensing Fund functions. We also recommend the Division make periodic reviews of those time sheets in order to determine if the full time equivalency percentages are reasonable for reimbursement purposes. (See Pages 18-19.)

#### Missing Files

3. Chapter 21, Article 11, Sections 15 and 17 of the West Virginia Code requires the Division of Labor and the Contractor Licensing Board to maintain records and files. During our testing of cash receipts of the Contractor Licensing fund, three hard copy original files could not be located. Applying this to the overall population, there could have been approximately 270 files missing. We were unable to verify that proper procedures were followed and statutory criteria was met prior to issuance of the licenses.

We recommend the Division of Labor and the Contractor Licensing Board comply with Chapter 21, Article 11, Sections 15 and 17 of the West Virginia Code. (See Pages 19-20.)

#### Sick Leave Usage

4. We noted the Division of Labor had not defined sick leave abuse as set out in the West Virginia Division of Personnel's Administrative Regulations. We believe the lack of a definition of sick leave abuse may permit extravagant use of sick leave. During the average audit period of 2.40 years the Division of Labor employees used an average of 730 days of sick leave with 576 days verified by the employee only.

We recommend the Division of Labor define what a pattern of sick leave abuse means and review employees' sick leave records applying this definition to detect possible abuse of sick leave, if any. (See Pages 20-23.)

#### Payment of Sales Tax

5. During our test of expenditures, we noted the Division of Labor paid West Virginia sales tax on nearly all purchases made from one vendor. Sales tax paid on those invoices included in our test amounted to \$1,489.47. We were furnished documentation at the exit conference which indicated the Division had received credit for these tax payments.

We recommend the Division of Labor review all invoices of the vendor who included sales tax on their invoices and request a refund of all taxes paid. We also recommend Division of Labor personnel pay closer attention to invoices prior to payment. (See Pages 23-24.)

Contractor Licensing Receipts - Late Deposits

6. We noted during the period July 1, 1991 through June 30, 1994, approximately \$3,682,198.00 in contractor licensing fees had been deposited late causing the State of West Virginia to lose approximately \$12,000.00 in interest earnings.

We recommend the Division of Labor comply with Chapter 12, Article 2, Section 2 of the West Virginia Code. (See Pages 24-25.)

Resignation or Retirement Increment Payments  
Not Properly Calculated

7. We noted any time an employee leaves the employment of the Division, prior to receiving their full incremental pay, their fractional portion is being calculated on the amount of their last incremental pay instead of what they would have received if they had worked through the end of the fiscal year. The employee noted in the example was underpaid \$27.00.

We recommend any fractional portion of incremental payments paid by the Division of Labor be calculated based on the interpretation of the Attorney General's opinion No. 37 dated June 27, 1990. We also recommend the Division of Labor take necessary steps to compensate the employee the \$27.00 underpayment from their last incremental payment. (See Pages 25-27.)

### Equipment Inventory

8. Prior to March 1995, the Division of Labor did not have a complete inventory of equipment. The Division had been working on one for some time, and completed it during our examination. However, the inventory was lacking some vital information such as name and address of the vendor, the date of purchase, price paid for the property and disposition thereof. During fiscal years 1993 and 1994, the Division of Labor had purchased approximately \$208,000.00 in office and communication equipment.

We recommend the Division of Labor complete the inventory with the missing information and maintain the inventory in a current status. (See Pages 27-28.)

### Subsequent Events

9. We noted internal controls over the receipting and depositing of licensing fees are lax. Because of these lax controls, the Division of Labor experienced an apparent theft of \$550.00 during the period October 14 through 19, 1994.

We recommend the Division of Labor establish a cashier's function for the receipting of all cash. (See Pages 30-31.)

WEST VIRGINIA DIVISION OF LABOR

GENERAL REMARKS

INTRODUCTION

We have completed a post audit of the West Virginia Division of Labor. The audit covered the period July 1, 1986 through June 30, 1994.

GENERAL REVENUE ACCOUNTS

The West Virginia Division of Labor maintained the following accounts for its general operations:

| <u>Fund Number</u> | <u>Old Account Number</u> | <u>Description</u> |
|--------------------|---------------------------|--------------------|
| 0260-001 . . . . . | 4500-00 . . . . .         | Personal Services  |
| 0260-004 . . . . . | 4500-66 . . . . .         | Annual Increment   |
| 0260-010 . . . . . | 4500-35 . . . . .         | Employee Benefits  |
| 0260-099 . . . . . | 4500-14 . . . . .         | Unclassified       |
| 0260-592 . . . . . | 4500-80 . . . . .         | Departmental Fees  |

FEDERALLY FUNDED ACCOUNTS

The West Virginia Division of Labor maintained the following accounts which were primarily funded from Federal sources:

| <u>Fund Number</u> | <u>Old Account Number</u> | <u>Description</u> |
|--------------------|---------------------------|--------------------|
| 8706-099 . . . . . | 7884-14 . . . . .         | Unclassified       |
| 8706-700 . . . . . | 7884-99 . . . . .         | Federal Revenue    |

SPECIAL REVENUE ACCOUNTS

During the audit period, the West Virginia Division of Labor maintained eight special revenue accounts. These accounts represent funds from proceeds of specific activities as required by

law or administrative regulations. These funds were deposited with the State Treasurer in the following special revenue accounts:

| <u>Fund Number</u> | <u>Old Account Number</u>     | <u>Description</u>   |
|--------------------|-------------------------------|--|
| 3180-099 . . . .   | 8129-17 . . . .               | Wage Payment/Collection Account Escrow - Unclassified.                                 |
| 3180-640 . . . .   | 81 <sup>1</sup> 29-17 . . . . | Wage Payment/Collection Account Escrow - Unclassified - Departmental and Misc. Income. |
| 3181-099 . . . .   | 8129-18 . . . .               | Wage Payment Bond Assurance Investment - Unclassified.                                 |
| 3181-640 . . . .   | 8129-18 . . . .               | Wage Payment Bond Assurance Investment - Departmental and Misc. Income.                |
| 3182-099 . . . .   | 8129-19 . . . .               | Boiler Inspection Fees Fund - Unclassified.  |
| 3182-640 . . . .   | 8129-19 . . . .               | Boiler Inspection Fees Fund - Departmental and Misc. Income.                           |
| 3183-099 . . . .   | 8129-20 . . . .               | Special Equipment Fund - Unclassified.   |
| 3183-640 . . . .   | 8129-20 . . . .               | Special Equipment Fund - Departmental and Misc. Income.                                |
| 3184-099 . . . .   | 8129-28 . . . .               | Insurance Proceeds for Stolen Truck - Unclassified.                                    |
| 3184-640 . . . .   | 8129-28 . . . .               | Insurance Proceeds for Stolen Truck - Departmental and Misc. Income.                   |
| 3185-099 . . . .   | 8129-31 . . . .               | WV/MFTD. House Construction/SAF Stds. Account - Unclassified.                          |

|                  |                 |  |
|------------------|-----------------|--|
| 3185-640 . . . . | 8129-31 . . . . | WV/MFTD. House Construction/SAF Stds. Account Departmental and Misc. Income. |
| 3186-099 . . . . | 8129-32 . . . . | Contractor Licensing Board Fund - Unclassified.                              |
| 3186-640 . . . . | 8129-32 . . . . | Contractor Licensing Board Fund - Departmental & Misc. Income.               |
| 3187-001 . . . . | 8128-00 . . . . | Appropriated Contractor Licensing Board Fund - Personal Services.            |
| 3187-004 . . . . | 8128-66 . . . . | Appropriated Contractor Licensing Board Fund - Annual Increment.             |
| 3187-010 . . . . | 8128-35 . . . . | Appropriated Contractor Licensing Board Fund - Employee Benefits.            |
| 3187-099 . . . . | 8128-19 . . . . | Appropriated Contractor Licensing Board Fund - Unclassified.                 |
| 3187-640 . . . . | 8128-99 . . . . | Contractor Licensing Board - Departmental & Misc. Income.                    |

COMPLIANCE MATTERS

Chapter 21, Articles 1 through 12 and Chapter 47, Articles 1, 1A, 5, and 11B of the West Virginia Code and Legislative Rules Title 28, Series 1 and 2 and Title 42, Series 1 through 21 generally governs the West Virginia Division of Labor. Title 28 governs the West Virginia Contractor Licensing Board and Title 42 governs all other functions of the Division of Labor. We tested applicable sections of the above plus general State regulations, and other applicable sections of the West Virginia

Code as they pertain to fiscal matters. Our findings are discussed below:

Workers' Compensation and Sick Leave

Chapter 23, Article 4, Section 1 of the West Virginia Code (Workers' Compensation Statute) states in part:

"Subject to the provisions and limitations elsewhere in this chapter set forth, the commissioner shall disburse the workers' compensation fund to the employees of employers subject to this chapter, which employees have received personal injuries in the course of and resulting from their covered employment . . . Provided, That in the case of any employees of the state and its political subdivisions, including. . . who have received personal injuries in the course of and resulting from their covered employment, such employees are ineligible to receive compensation while such are at the same time and for the same reason drawing sick leave benefits. Such state employees may only use sick leave for non-job related absences consistent with sick leave utilization, and may draw workers' compensation benefits only where there is a job related injury. (Emphasis added) . . . That in the event an employee is injured in the course of and resulting from covered employment and such injury results in lost time from work, and such employee for whatever reason uses or obtains sick leave benefits and subsequently receives temporary total disability benefits for the same time period, such employee may be restored sick leave time taken by him or her as a result of the compensable injury by paying to his or her employer the temporary total benefits received or an amount equal to the temporary total benefits received . . ." (Emphasis added) Such employee shall be restored sick leave time on a day for day basis which corresponds to temporary total disability benefits paid to the employer...."

During our test of sick leave, we noted six employees having sick leave benefits restored which were used due to injuries sustained in the course of covered employment. These sick leave benefits were utilized while the employees were waiting to receive

their temporary total disability benefits from the Workers' Compensation Fund. Depending upon the method of repayment employees are having to repay amounts that are in excess of those permitted by Statute with the exception of one employee who paid less than the amount due. If the Division of Labor follows the statute and accepts only the amount of the temporary total disability benefits as repayment of the sick leave taken, the amounts repaid are less than the State's cost of the sick leave.

As stated above, sick leave may be restored to an employee upon payment to the employer the temporary total benefits received or an amount equal to the benefits. During our examination of these repayments, we noted if the employee did not present the Workers' Compensation check to the Division of Labor as repayment of the sick leave, the Division would calculate the amount due based on the employee's rate of pay and not an amount equal to the temporary total benefits received. Listed below are the results of the aforementioned practices:

| <u>Emp.</u> | <u>Workers' Comp. Benefits Paid</u> | <u>Emp.'s Buy Back of Sick Leave</u> | <u>Comp. (Over) Under Buy Back</u> | <u>Labor's Salary Cost Of Sick Leave</u> | <u>Comp. (Over) Under Cost Of Sick Leave</u> |
|-------------|-------------------------------------|--------------------------------------|------------------------------------|--|--|
| #1          | \$ 704.88                           | \$ 543.67                            | \$161.21                           | \$ 956.74                                | \$ 314.22                                    |
| #2          | \$ 781.69                           | \$ 833.74                            | (\$ 52.11)                         | \$1,132.06                               | \$ 350.43                                    |
| #3          | \$ 849.05                           | \$ 863.82                            | (\$ 14.77)                         | \$1,332.28                               | \$ 483.23                                    |
| #4          | \$ 231.48                           | \$ 231.48                            | \$ 0.00                            | \$ 405.14                                | \$ 173.66                                    |
| #5          | \$ 121.20                           | \$ 121.20                            | \$ 0.00                            | \$ 181.80                                | \$ 60.60                                     |
| #6          | \$ 33.86                            | \$ 33.86                             | \$ 0.00                            | \$ 67.71                                 | \$ 33.85                                     |
| Tot.        | <u>\$2,722.10</u>                   | <u>\$2,593.91</u>                    | <u>\$128.19</u>                    | <u>\$4,138.09</u>                        | <u>\$1,415.99</u>                            |

The first column, Workers' Compensation Benefits Paid, represents the amount of the temporary total disability benefits received by the employee during the time the employee was off on

sick leave. The second column, Employee's Buy Back of Sick Leave, represents the amount paid to the Division of Labor by the employee for restoration of sick leave benefits. The third column is the difference in the amount of Workers' Compensation benefits received and the amount the employee paid to the Division of Labor for restoration of sick leave used. The negative amounts in this column are owed to the employee and positive amounts are due the Division of Labor. The fourth column represents the cost to the Division of Labor, based on the employee's salary, of the sick leave used by the employee. The last column shows the amount the State loses under the current statute which permits the buy back of sick leave benefits in an amount equal to the temporary total disability benefits received. For the six employees listed above the State lost a total of \$1,415.99, due to the State not being reimbursed for the total cost of its outlay.

According to the above schedule, one employee (employee #1) underpaid the Division, while two other employees (employees #2 and #3) overpaid the Division of Labor for their buy back of sick leave. The statute was followed for three employees (employees #4, #5 and #6) who paid the Division an amount equal to their Workers' Compensation benefits.

We recommend the Division of Labor comply with Chapter 23, Article 4, Section 1 of the West Virginia Code. We also recommend the Division receive payment from the employee who underpaid the Division of Labor and issue a refund to those employees who overpaid the Division. We suggest to the West

Virginia Legislature the Code reference be reviewed for possible amendment to be changed to include total reimbursement of the State's outlay for restoration of sick leave benefits.

Reimbursement to the General Revenue  
Personal Services Account

The Division of Labor pays all employees from a centralized payroll paid from appropriated General Revenue Fund. The General Revenue Fund is reimbursed, usually monthly, from other special and federal funds. The reimbursements are based on full-time equivalency percentages primarily established at the beginning of the year and set out in the Division's expenditure schedules.

For example, those employees working in the Contractor Licensing's Section of the Division, their established equivalency percentages are 50/50, which means the employees are spending 50% of their time on General Revenue Fund functions and 50% on Contractor Licensing Fund functions. The General Revenue Fund is reimbursed 50% of its payroll cost from contractor licensing revenues. We noted in trying to test to determine if the 50/50 allocation was reasonable, the employees' time sheets did not indicate how much time was spent on General Revenue Fund functions and Contractor Licensing Fund functions. However, we noted each compliance officer had monthly activity summaries which indicated what activities were for General Revenue Fund functions and Contractor Licensing Fund functions. Based on the monthly activities report, we determined 65% of the compliance officers activities were General Revenue Fund functions and 35% Contractor

Licensing Fund functions. Based on the results of our testing and projecting the results over the entire population of those employees working with Contractor Licensing Fund functions during fiscal years 1993 and 1994, the General Revenue Fund was over reimbursed approximately \$220,000.00. This means the General Revenue Fund functions of the Division are being subsidized by the Contractors Licensing Fund revenues.

We recommend the Division develop time sheets which measure in hours how much time is spent on General Revenue Fund functions and Contractor Licensing Fund functions. We also recommend the Division make periodic reviews of those time sheets in order to determine if the full time equivalency percentages are reasonable for reimbursement purposes.

#### Missing Files

Chapter 21, Article 11, Section 15 and 17, respectively, of the West Virginia Code concerning the "West Virginia Contractor Licensing Act" states in part:

"(a) For and on behalf of the board, the division and commissioner shall perform the following administrative duties:

. . . (2) Maintain records and files; (3) Issue and receive applications forms; . . . (10) Maintain files relating to individual licensees; . . ."

"(b) The board shall maintain at the principal office, open for public inspection during office hours, a completed indexed record of all applications, licenses issued, licenses renewed and all revocations, cancellations and suspensions of licenses. Applications shall show the date of application, name, qualifications, place of business and place of residence of each applicant; and whether the application was approved or refused. . . ."

During our testing of cash receipts of the Contractor Licensing fund, three hard copy original files of the 200 tested could not be located, this equates to 1.5%. Applying this to the entire population of 18,263 licenses issued since the establishment of the Contractor Licensing Act, we estimated that approximately 270 original files could be missing. With the original files missing, we were unable to verify proper procedures were followed and statutorial established criteria was met prior to issuance of the licenses. The Division of Labor personnel believed the files had been either misfiled or misplaced somewhere in the Division.

We recommend the Division of Labor and the Contractor Licensing Board comply with Chapter 21, Article 11, Sections 15 and 17 of the West Virginia Code.

#### Sick Leave Usage

The Division of Labor follows the administrative regulations promulgated by the West Virginia Division of Personnel in the granting of sick leave. Section 15.04. Sick Leave subsection (f) of the Division of Personnel's Administrative Regulations states in part:

"Granting - Accrued sick leave shall be granted to employees for the following reasons:

1. Illness - ....
2. Death in the Immediate Family of the Employee - ....
3. Exposure to Contagious Disease - ....
4. Pregnancy - ....
5. Routine Medical Appointments - Employee - ....
6. Illness and/or Routine Dental and Medical Appointments - Immediate Family - ...."

The very nature of these regulations appear to permit the extravagant use of sick leave in that the regulations allows the use of sick leave for purposes other than personal sickness. Subsection (g) of these regulations could further the extravagant use of sick leave by not requiring a physician's statement until the employee has missed more than three consecutive days. Subsection (g) states in part:

"1. Immediately upon return to work, an employee shall furnish a written statement from the attending physician for all consecutive days of sick leave granted beyond three working days...."

Although the regulations do address suspected leave abuse, the regulations do not define the word "abuse". It would be difficult for administrators to take action against potential abusers if there is no definition of sick leave abuse. Section 15.05. Suspected Leave Abuse states in part:

"When an employee appears to have a pattern of leave abuse, including such frequent use of sick leave as to render the employee's services undependable, the appointing authority may request appropriate substantiation of the employee's claim for leave,..."

Our examination of expenditures included a review of sick leave usage for all 78 employees of the Division of Labor for the period July 1, 1991 through September 30, 1994. Our analysis of sick leave appears below:

| <u>EMPLOYEE TENURE</u>         | <u>&lt;10 Yrs</u> | <u>&gt;10 Yrs</u> | <u>TOTAL</u> | <u>&lt;10 Yrs</u> | <u>&gt;10 Yrs</u> |
|--------------------------------|-------------------|-------------------|--------------|-------------------|-------------------|
| NUMBER OF EMPLOYEES            | 55                | 23                | 78           | 71%               | 29%               |
| <u>LEAVE TAKEN HOURS</u>       |                   |                   |              |                   |                   |
| Average                        | 3,842             | 1,998             | 5,840        | 66%               | 34%               |
| Average Employee Verified Only | 2,983             | 1,623             | 4,606        | 65%               | 35%               |
| Average Other Verified         | 859               | 375               | 1,234        | 70%               | 30%               |

|   |          |          |          |     |      |
|---|----------|----------|----------|-----|------|
| <u>COST OF LEAVE</u>                    |          |          |          |     |      |
| Average                                 | \$37,380 | \$26,819 | \$64,199 | 58% | 42%  |
| Average Employee Ver-<br>ified Only     | \$29,457 | \$22,328 | \$51,785 | 57% | 43%  |
| Average Other Verified                  | \$ 7,922 | \$ 4,491 | \$12,413 | 64% | 36%  |
| <u>AVERAGE SALARY &amp; BENEFITS</u>    |          |          |          |     |      |
|   | \$25,302 | \$29,602 | \$26,571 | 95% | 111% |
| <u>AVERAGE RETIREMENT<br/>INSURANCE</u> |          |          |          |     |      |
|   | \$25,241 | \$27,251 | \$25,834 | 98% | 105% |
| <u>FULL TIME EQUIVALENT</u>             |          |          |          |     |      |
| Average                                 | 1.0348   | 1.0436   | 1.0379   |     |      |
| Average Employee Ver-<br>ified Only     | 1.0268   | 1.0351   | 1.0298   |     |      |
| Average Other Verified                  | 1.0076   | 1.0079   | 1.0077   |     |      |
| <u>ADDITIONAL EMPLOYEES</u>             |          |          |          |     |      |
| Average                                 | 1.85     | 0.96     | 2.85     |     |      |
| Average Employee Ver-<br>ified Only     | 1.43     | 0.78     | 2.25     |     |      |
| Average Other Verified                  | 0.41     | 0.18     | 0.60     |     |      |

During this period, the above employees used a yearly average of 5,840 hours representing 730 days of sick leave with a cost of \$64,199. Of this yearly average, 4,606 hours representing 576 days were sick days off that only required the employees verification. We noted no violations of the Division of Personnel's Administrative Rules and the Division's sick leave usage appears to follow the general pattern of sick leave usage for other State agencies. Employee verified only sick leave used equates to a full time equivalent employee of 1.298. This full time equivalent rate means the Division of Labor has had to employ 2.25 additional employees to complete its work. The cost of this sick leave was \$51,785.

As previously mentioned, Division of Labor employees used 4,606 hours or 576 days of sick leave verified by the employee only. The primary users of the sick leave were those employees with less than 10 years service. State employees who retire may

elect an option to use their sick leave accrual to pay health insurance premiums, purchasing one month of single coverage for every two days of sick leave or one month of family coverage for every three days of sick leave. Using the Division of Labor records, we calculated at current rates, the average salary and benefits and the average retirement insurance. We noted salary and benefits exceed the insurance, this means the State paid \$2,069 more for the sick leave, instead of saving it to purchase insurance benefits upon retirement.

We recommend the Division of Labor define what a pattern of sick leave abuse means and review employees' sick leave records applying this definition to detect possible abuse of sick leave, if any.

#### Payment of Sales Tax

The West Virginia Code exempts State agencies from taxation on sales of property or services. Chapter 11, Article 15, Section 9 (Taxation Statute) of the West Virginia Code states in part:

"The following sales and services shall be exempt: ... (c) Sales of property or services to the state, its institutions or subdivisions, and to the United States, including agencies of federal, state or local governments for distributions in public welfare or relief work;..."

During our test of expenditures, we noted the Division of Labor paid West Virginia sales tax on nearly all purchases made from one vendor. Sales tax paid on those invoices included in our test amounted to \$1,489.47. The payment of sales tax on invoices

apparently was an oversight by personnel of the Division of Labor. By payment of these taxes, the Division lost the benefit of funds that could have been used for the furtherance of the Division's programs. During our exit conference, we were furnished documentation which indicated the Division had been given credit for the sales tax payments.

We recommend the Division of Labor review all invoices of the vendor who included sales tax on their invoices and request a refund of all taxes paid. We also recommend that Division of Labor personnel pay closer attention to invoices prior to payment.

Contractor Licensing Receipts - Late Deposits

Chapter 12, Article 2, Section 2 of the West Virginia Code states in part:

"(a) All officials and employees of the state authorized by statute to accept moneys due the state of West Virginia shall keep a daily itemized record of such moneys so received for deposit in the state treasury and shall deposit within twenty-four hours with the state board of investments all moneys received or collected by them for or on behalf of the state for any purpose whatsoever...."

The Division of Labor receives fee collections from most of the programs for which it is responsible. These include licensing of contractors and polygraph operators; permits for operation of amusement rides, bedding manufacturers, going out of business sales, manufactured housing dealers, distributors and contractors and boilers; and the collection of wage bonds and payments. During our test of cash receipts of these revenue sources, we noted the majority of the receipts were not deposited

within twenty-four hours of receiving as required by Statute. The results of our examination of one of these collection points follows.

For contractor licenses, we examined 200 licensees and found that 83% of them were deposited late with 70% being deposited an average of 1.6 days late and 13% deposited an average of 8 days late. Total contractor licensing receipts deposited late during the audit period of July, 1, 1991 through June 30, 1994 were calculated to be \$3,682,198.00. Applying the results of this test to the entire population of the contractor license revenues over the audit period, we estimated interest losses to the State of West Virginia to be approximately \$12,000.00

We recommend the Division of Labor comply with Chapter 12, Article 2, Section 2 of the West Virginia Code.

Resignation or Retirement Increment Payments  
Not Properly Calculated

Attorney General's Opinion No. 37 dated June 27, 1990 states in part:

"Considering that the W. Va. Code 5-5-2 incremental increase constitutes part of an eligible state employee's regular pay for services previously rendered, any such employee has a statutory right to any accrued pro rata share of that increment owing but not due on his final day of employment. By entitlement to a pro rata share, it is meant that an employee who does not work an entire fiscal year is entitled to a fractional portion of the total increment to which the employee would have been entitled had he been employed during the entire fiscal year...."

Fractional portions of incremental payments are not being properly calculated by the Division of Labor. This appears to be

occurring because there is no established state wide policy of how to properly perform the calculations and/or the Division's interpretation of the Attorney General's Opinion. Any time an employee leaves the employment of the Division, prior to receiving their full incremental pay, their fractional portion is being calculated on the amount of their last incremental pay instead of what they would have received if they had worked through the end of the fiscal year.

For example, an employee who was employed on November 16, 1987 and resigned March 31, 1993 had five years and nine months credited service. This employee's last full incremental check was for \$144.00 for four years credited service through June 30, 1992. When the employee resigned on March 31, 1993, the employee was paid \$108.00 for nine months credited service. The Division of Labor calculated this by taking the previous incremental pay of \$144.00 dividing by 12 to arrive at a monthly rate of \$12.00 and multiplying by nine months of service in the fiscal year the employee was resigning. According to the above Opinion, the employee should have been paid \$135.00 for the nine months, calculated by dividing \$180.00 (the increment the employee would have received if he/she had worked the entire fiscal year) by 12 for a monthly rate of \$15.00 times the nine months the employee worked. The employee was underpaid \$27.00.

We recommend any fractional portion of incremental payments paid by the Division of Labor be calculated based on the interpretation of the Attorney General's Opinion No. 37 dated June

27, 1990. Also, we recommend the Division of Labor take necessary steps to compensate the employee the \$27.00 underpayment on their final incremental payment.

#### Equipment Inventory

Chapter 5A, Article 3, Section 35 of the West Virginia Code states:

"The head of every spending unit of state government shall, on or before the fifteenth day of July of each year, file with the director an inventory of all real and personal property, and of all equipment, supplies and commodities in its possession as of the close of the last fiscal year, as directed by the director."

Spending units have not been directed by the Director of Purchasing to file an annual inventory, and the current Purchasing Handbook, revised April 4, 1994, states under "Inventory Management" that guidelines are currently in production. Spending units should realize the importance an annual inventory plays in the safeguarding of assets and conduct annual inventories without being directed to do so. Adequate safeguards limits access to and use of assets. Prior to March 1995, the Division of Labor did not have a complete inventory of equipment. The Division had been working on one for some time, and completed it during our examination.

The Division of Labor has purchased a considerable amount of equipment over the past several years with most being of the technical nature. This in itself should encourage the Division to adopt strict controls over equipment inventory. During fiscal year 1994, the Division purchased \$113,009 in equipment of which

\$101,165 was for office and communication equipment. For fiscal year 1993, \$152,122 was expended on equipment of which \$106,668 was for office and communication equipment.

Although the inventory was a step in the right direction for the safeguarding of assets, the inventory was still lacking some vital information such as the name and address of the vendor, the date of the purchase, the price paid for the property and disposition thereof.

We recommend the Division of Labor complete the inventory with the missing information and maintain the inventory in a current status.

#### INTERNAL CONTROLS AND ACCOUNTING SYSTEM

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

The objective of internal accounting control is to provide reasonable, but not absolute, assurance as to the safeguarding of assets against loss from unauthorized use or disposition, and the reliability of financial records for preparing financial statements and maintaining accountability for assets. The concept of reasonable assurance recognizes that the cost of a

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

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

Our study and evaluation of the system of internal accounting control for the period July 1, 1986 to June 30, 1994, which was made for the purpose set forth in the first paragraph above, would not necessarily disclose all weaknesses in the system. However, such study and evaluation disclosed the following weakness.

### Subsequent Events

As previously mentioned in our report, the Division of Labor receives monies from various licensing fees. During our examination, we noted the accounting records relating to these fees were computerized; however, controls over receipting and depositing of the license fees are lax. Each section within the Division of Labor is responsible for the receipting of cash. After receipt, the paperwork is processed and the cash received is directed to the Administration Section for deposit with the State Board of Investments. No particular employee is accountable for cash and because of this there was an apparent theft of \$550.00 during the period October 14 through 19, 1994. This apparent theft was reported to us by the Commissioner in November 1994. The monies in question were received by several different employees in the Division and placed in a safe awaiting deposit with the State Board of Investments. The Division's practice allowed the safe to be opened in the morning and left unlocked throughout the day. We believed adequate internal controls over the receipting and processing of cash collections could have prevented this apparent theft. Specifically, if the Division had a cashier's function, all checks and cash should be directed to the cashier before paperwork is disbursed to clerks for processing. All checks and cash should be deposited, refunds or invoices to be made if applicable. At the end of each day, all paperwork processed from each division should be reconciled with the cashier.

We also noted in most instances cash items did not have the receipt date recorded which makes it impossible to determine the timeliness of depositing of fees in relation to the twenty-four hour requirement of the West Virginia Code. Preparations of deposit sheets were not computer generated from data input, but instead prepared manually from items on hand. These items could also be incorporated into the cashier's function.

We recommend the Division of Labor establish a cashier's function for the receipting of all cash.

## INDEPENDENT AUDITORS' OPINION

The Joint Committee on Government and Finance:

We have audited the statement of appropriations/cash receipts, expenditures/disbursements and changes in fund balances of the West Virginia Division of Labor for the years ended June 30, 1994 and June 30, 1993. The financial statement is the responsibility of the management of the West Virginia Division of Labor. Our responsibility is to express an opinion on the financial statement based on our audit.

Except as discussed in the following paragraph, we conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluations the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Certain records relating to the issuance of contractor licenses were unavailable during the audit and could not be located by agency personnel. As a result, we were unable to satisfy ourselves that proper procedures were followed in the issuance of these licenses and all requirements of the law were met prior to the issuance of these licenses. Also, the agency did not retain monthly reports concerning investment accounts maintained with the West Virginia State Board of Investments during the audit period. Accordingly, we could not ascertain interest earnings on investments during fiscal years 1994 and 1993 and the invested balances as of June 30, 1994 and June 30, 1993.

As described in Note A, the financial statement was prepared on the cash and modified cash basis of accounting, which are comprehensive bases of accounting other than generally accepted accounting principles.

In our opinion, except for the effects, if any, of the agency's inability to locate certain records relating to contractor licenses and our inability to apply alternative procedures to satisfy ourselves as to the fairness of the amounts received for contractor licenses and that proper procedures were followed and applicable laws complied with in their issuance, as well as, the lack of retention of certain records dealing with investments and our inability to apply alternative procedures to satisfy ourselves as to the fairness of the investment balances and the interest earnings on investments as noted in paragraph three, the financial statement referred to above presents fairly, in all material respects, the appropriations and expenditures and revenue collected and expenses paid of the West Virginia Division of Labor for the years ended June 30, 1994 and June 30, 1993, on the bases of accounting described in Note A.

Our audit was conducted for the purpose of forming an opinion on the basic financial statement taken as a whole. The supplemental information is presented for the purposes of additional analysis and is not a required part of the basic financial statement. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statement and except for the effects, if any, of the matters discussed in paragraph three above, is fairly stated in all material respects in relation to the basic financial statement taken as a whole.

Respectfully submitted,

  
Theodford L. Shanklin, CPA, Director  
Legislative Post Audit Division

April 12, 1995

Auditors: Nick Arvon, Supervisor  
Charles L. Lunsford, Auditor-in-Charge  
Jason A. Haught  
Peter J. Maruish

WEST VIRGINIA DIVISION OF LABOR  
 STATEMENT OF APPROPRIATIONS/CASH RECEIPTS, EXPENDITURES/  
 DISBURSEMENTS AND CHANGES IN FUND BALANCES

|  | <u>Year Ended June 30, 1994</u> |                            |                             |
|--|---------------------------------|----------------------------|-----------------------------|
|  | <u>General<br/>Revenue</u>      | <u>Special<br/>Revenue</u> | <u>Federal<br/>Programs</u> |
| <b>Appropriations/Cash Receipts:</b>   |                                 |                            |                             |
| Appropriations   | \$1,353,859.00                  | \$0.00                     | \$0.00                      |
| License and Inspection Fees  | 46,640.00                       | 1,597,706.19               | 0.00                        |
| Federal Funds  | 0.00                            | 0.00                       | 308,650.77                  |
| Miscellaneous  | <u>0.00</u>                     | <u>0.00</u>                | <u>0.00</u>                 |
|  | 1,400,499.00                    | 1,597,706.19               | 308,650.77                  |
| <b>Expenditures/Disbursements:</b>   |                                 |                            |                             |
| Personal Services  | 825,157.27                      | 504,606.90                 | 184,592.33                  |
| Employee Benefits  | 258,084.78                      | 178,171.71                 | 64,522.21                   |
| Current Expenses   | 154,049.82                      | 541,631.05                 | 72,234.95                   |
| Repairs and Alterations  | 12,769.56                       | 1,313.70                   | 1,329.50                    |
| Equipment  | 13,652.48                       | 117,104.85                 | 22,872.29                   |
| Refunds  | 0.00                            | 0.00                       | 0.00                        |
| Transfers to State Board<br>of Investments - Net                                     | 0.00                            | 37,200.00                  | 0.00                        |
| Transfers to State General Revenue Fund  | <u>46,640.00</u>                | <u>0.00</u>                | <u>0.00</u>                 |
|  | <u>1,310,353.91</u>             | <u>1,380,028.21</u>        | <u>345,551.28</u>           |
| <b>Appropriations/Cash Receipts<br/>Over (Under) Expenditures/<br/>Disbursements</b> |                                 |                            |                             |
|  | 90,145.09                       | 217,677.98                 | (36,900.51)                 |
| <b>Expirations and Expenditures<br/>After June 30</b>                                |                                 |                            |                             |
|  | (90,145.09)                     | 0.00                       | 0.00                        |
| <b>Beginning Balance</b>   |                                 |                            |                             |
|  | <u>0.00</u>                     | <u>751,194.73</u>          | <u>129,304.93</u>           |
| <b>Ending Balance</b>  |                                 |                            |                             |
|  | <u>\$0.00</u>                   | <u>\$968,872.71</u>        | <u>\$92,404.42</u>          |

*See Notes to Financial Statement*

| <u>Combined<br/>Totals</u> | <u>General<br/>Revenue</u> | <u>Year Ended June 30, 1993</u> |                             | <u>Combined<br/>Totals</u> |
|----------------------------|----------------------------|---------------------------------|-----------------------------|----------------------------|
|                            |                            | <u>Special<br/>Revenue</u>      | <u>Federal<br/>Programs</u> |                            |
| \$1,353,859.00             | \$1,358,332.00             | \$0.00                          | \$0.00                      | \$1,358,332.00             |
| 1,644,346.19               | 45,360.00                  | 1,648,705.28                    | 0.00                        | 1,694,065.28               |
| 308,650.77                 | 0.00                       | 0.00                            | 323,422.32                  | 323,422.32                 |
| 0.00                       | 0.00                       | <u>9,720.00</u>                 | <u>0.00</u>                 | <u>9,720.00</u>            |
| 3,306,855.96               | 1,403,692.00               | 1,658,425.28                    | 323,422.32                  | 3,385,539.60               |
| 1,514,356.50               | 824,915.42                 | 464,168.69                      | 163,215.43                  | 1,452,299.54               |
| 500,778.70                 | 281,516.25                 | 174,379.75                      | 54,956.73                   | 510,852.73                 |
| 767,915.82                 | 108,088.95                 | 655,472.56                      | 84,862.10                   | 848,423.61                 |
| 15,412.76                  | 30,183.10                  | 50,328.70                       | 99.50                       | 80,611.30                  |
| 153,629.62                 | 6,910.69                   | 139,445.51                      | 5,997.28                    | 152,353.48                 |
| 0.00                       | 0.00                       | 5,675.00                        | 0.00                        | 5,675.00                   |
| 37,200.00                  | 0.00                       | 21,543.00                       | 0.00                        | 21,543.00                  |
| <u>46,640.00</u>           | <u>45,360.00</u>           | <u>0.00</u>                     | <u>0.00</u>                 | <u>45,360.00</u>           |
| <u>3,035,933.40</u>        | <u>1,296,974.41</u>        | <u>1,511,013.21</u>             | <u>309,131.04</u>           | <u>3,117,118.66</u>        |
| 270,922.56                 | 106,717.59                 | 147,412.07                      | 14,291.28                   | 268,420.94                 |
| (90,145.09)                | (106,717.59)               | 0.00                            | 0.00                        | (106,717.59)               |
| <u>880,499.66</u>          | <u>0.00</u>                | <u>603,782.66</u>               | <u>115,013.65</u>           | <u>718,796.31</u>          |
| <u>\$1,061,277.13</u>      | <u>\$0.00</u>              | <u>\$751,194.73</u>             | <u>\$129,304.93</u>         | <u>\$880,499.66</u>        |

WEST VIRGINIA DIVISION OF LABOR

NOTES TO FINANCIAL STATEMENT

Note A - Accounting Policies

Accounting Method: The modified cash basis of accounting is followed for the General Revenue Fund. The major modification from the cash basis is that a 31-day carry-over period is provided at the end of each fiscal year for the payment of obligations incurred in that year. All balances of the General Revenue Fund appropriations for each fiscal year expire on the last day of such fiscal year and revert to the unappropriated surplus of the fund from which the appropriations were made, except that expenditures encumbered prior to the end of the fiscal year may be paid up to 31 days after the fiscal year-end; however, appropriations for buildings and land remain in effect until three years after the passage of the act by which such appropriations were made. The cash basis of accounting is followed by all other funds. Therefore, certain revenue and the related assets are recognized when received rather than when earned, and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

Expenditures paid after June 30 in the carry-over period and expirations were as follows:

|                   | <u>Expenditures</u>        |                    | <u>Expirations</u> |                    |
|-------------------|----------------------------|--------------------|--------------------|--------------------|
|                   | <u>Paid After June 30,</u> |                    | <u>July, 31</u>    | <u>July, 31</u>    |
|                   | <u>1994</u>                | <u>1993</u>        | <u>1994</u>        | <u>1993</u>        |
| Personal Services | \$ 0.00                    | \$ 38.75           | \$18,801.58        | \$33,886.27        |
| Employee Benefits | 24,051.51                  | 21,240.33          | 26,099.06          | 38,038.98          |
| Unclassified      | 20,105.79                  | 13,504.47          | 0.00               | 8.79               |
| Annual Increment  | <u>0.00</u>                | <u>0.00</u>        | <u>1,087.15</u>    | <u>0.00</u>        |
|                   | <u>\$44,157.30</u>         | <u>\$34,783.55</u> | <u>\$45,987.79</u> | <u>\$71,934.04</u> |

Combined Totals: The combined totals contain the totals of similar accounts of the various funds. Since the appropriations and cash receipts of certain funds are restricted by various laws, rules and regulations, the totaling of the accounts is for memorandum purposes only and does not indicate that the combined totals are available in any manner other than that provided by such laws, rules and regulations.

Note B - Pension Plan

All eligible employees are members of the West Virginia Public Employees' Retirement System. Employees' contributions are 4.5% of their annual compensation and employees have vested rights under certain circumstances. The West Virginia Division of Labor matches contributions at 9.5% of the compensation on which the employees made contributions. The West Virginia Division of Labor's pension expenditures were as follows:

|                  | <u>Year Ended June 30,</u> |                     |
|------------------|----------------------------|---------------------|
|                  | <u>1994</u>                | <u>1993</u>         |
| General Revenue  | \$ 76,051.12               | \$ 77,580.16        |
| Special Revenue  | 52,130.43                  | 42,354.52           |
| Federal Programs | <u>17,528.86</u>           | <u>15,535.47</u>    |
|                  | <u>\$145,710.41</u>        | <u>\$135,470.15</u> |

Note C - Intra-Account Transactions

The following intra-account transactions have been eliminated:

|                 | <u>Year Ended June 30,</u> |               |
|-----------------|----------------------------|---------------|
|                 | <u>1994</u>                | <u>1993</u>   |
| Special Revenue | <u>\$242,817.51</u>        | <u>\$0.00</u> |

Note D - Bonding Requirement

In conformity with Chapter 12, Article 5, Section 2 of the West Virginia Code, as amended, various State agencies are required to deposit with the West Virginia State Treasurer all securities required to be deposited with the State or held in legal custody by the State and all departments of the State. Commensurately, the West Virginia Division of Labor had on deposit with the West Virginia State Treasurer for the purpose of wage payment security and contractor licensing bonds, \$12,177,763.39 at June 30, 1994.

Note E - Trust Funds

In accordance with Chapter 21, Article 5, Section 14 of the West Virginia Code, as amended, certain employers who have not been doing business actively and actually engaged in the conduct of business for at least five consecutive years are required to post a surety bond. The amount of each employer's bond is to be equal to the total of the employer's gross payroll for four weeks at full capacity or production, plus fifteen percent of the said total of the employer's gross payroll for four weeks at full capacity or production. The receipts for wage payment bonds were \$944,328.25

and \$1,231,995.99 for fiscal years 1994 and 1993, respectively. The claims for wages paid were \$514,524.94 and \$983,668.35 for fiscal years 1994 and 1993, respectively. The ending balances at June 30, 1994 were Wage Payment/Collection Act Escrow-Unclassified Fund 3180-640, \$200,862.12 and Wage Payment Bond Assurance Investment-Unclassified Fund 3181-640, \$460,055.01.

SUPPLEMENTAL INFORMATION

WEST VIRGINIA DIVISION OF LABOR  
 STATEMENTS OF APPROPRIATIONS AND EXPENDITURES  
 GENERAL REVENUE

|  | <u>Year Ended June 30,</u> |                    |
|--|----------------------------|--------------------|
|  | <u>1994</u>                | <u>1993</u>        |
| <u>Personal Services - Fund 0260-001</u> |                            |                    |
| <u>(Account 4500-00)</u>                 |                            |                    |
| Appropriations                           | \$832,683.00               | \$849,677.00       |
| Expenditures:                            |                            |                    |
| Personal Services                        | 813,881.42                 | 813,881.42         |
| Employee Benefits                        | <u>0.00</u>                | <u>1,909.31</u>    |
|  | <u>813,881.42</u>          | <u>815,790.73</u>  |
|  | 18,801.58                  | 33,886.27          |
| Transmittals Paid After June 30          | <u>0.00</u>                | <u>38.75</u>       |
| Balance                                  | <u>\$18,801.58</u>         | <u>\$33,925.02</u> |
| <br>                                     |                            |                    |
| <u>Employee Benefits - Fund 0260-010</u> |                            |                    |
| <u>(Account 4500-35)</u>                 |                            |                    |
| Appropriations                           | \$323,964.00               | \$338,925.00       |
| Expenditures                             | <u>297,864.94</u>          | <u>300,886.02</u>  |
|  | 26,099.06                  | 38,038.98          |
| Transmittals Paid After June 30          | <u>24,051.51</u>           | <u>21,240.33</u>   |
| Balance                                  | <u>\$50,150.57</u>         | <u>\$59,279.31</u> |

WEST VIRGINIA DIVISION OF LABOR

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

GENERAL REVENUE

|   | <u>Year Ended June 30,</u> |                    |
|---|----------------------------|--------------------|
|   | <u>1994</u>                | <u>1993</u>        |
| <u>Unclassified - Fund 0260-099</u>                                     |                            |                    |
| <u>(Account 4500-14)</u>  |                            |                    |
| Appropriations  | \$186,849.00               | \$158,696.00       |
| Reduction of Appropriation:   |                            |                    |
| Transfer by Secretary of Commerce, Labor and<br>Environmental Resources | (2,000.00)                 | 0.00               |
|   | 184,849.00                 | 158,696.00         |
| Expenditures:   |                            |                    |
| Current Expenses  | 154,049.82                 | 118,409.58         |
| Repairs and Alterations   | 12,769.56                  | 33,016.99          |
| Equipment   | 18,029.62                  | 7,260.64           |
|   | <u>184,849.00</u>          | <u>158,687.21</u>  |
|   | 0.00                       | 8.79               |
| Transmittals Paid After June 30   | <u>20,105.79</u>           | <u>13,504.47</u>   |
| Balance   | <u>\$20,105.79</u>         | <u>\$13,513.26</u> |
| <br><u>Annual Increment - Fund 0260-004</u>                             |                            |                    |
| <u>(Account 4500-66)</u>  |                            |                    |
| Appropriations  | \$12,363.00                | \$11,034.00        |
| Expenditures  | <u>11,275.85</u>           | <u>11,034.00</u>   |
|   | 1,087.15                   | 0.00               |
| Transmittals Paid After June 30   | <u>0.00</u>                | <u>0.00</u>        |
| Balance   | <u>\$1,087.15</u>          | <u>\$0.00</u>      |

WEST VIRGINIA DIVISION OF LABOR  
 STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS  
 GENERAL REVENUE

|  | <u>Year Ended June 30.</u> |                    |
|--|----------------------------|--------------------|
|  | <u>1994</u>                | <u>1993</u>        |
| <u>Departmental Fees -</u>             |                            |                    |
| <u>Fund 0260-592 (Account 4500-80)</u> |                            |                    |
| Beginning Balance:                     |                            |                    |
| State Treasury                         | \$0.00                     | \$0.00             |
| Cash Receipts:                         |                            |                    |
| Departmental Fees                      | <u>46,640.00</u>           | <u>45,360.00</u>   |
| TOTAL CASH TO ACCOUNT FOR              | <u>\$46,640.00</u>         | <u>\$45,360.00</u> |
| Disbursements:                         |                            |                    |
| Transfer to General Revenue            |                            |                    |
| Fund of West Virginia                  | \$46,640.00                | \$45,360.00        |
| Ending Balance:                        |                            |                    |
| State Treasury                         | <u>0.00</u>                | <u>0.00</u>        |
| TOTAL CASH ACCOUNTED FOR               | <u>\$46,640.00</u>         | <u>\$45,360.00</u> |

WEST VIRGINIA DIVISION OF LABOR  
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS  
SPECIAL REVENUE

|  | <u>Year Ended June 30,</u> |                         |
|--|----------------------------|-------------------------|
|  | <u>1994</u>                | <u>1993</u>             |
| <u>Boiler Inspection Fees Fund</u>           |                            |                         |
| <u>Fund 3182-099 (Account 8129-19)</u>       |                            |                         |
| Beginning Balance:                           |                            |                         |
| State Treasury                               | \$86,318.76                | \$74,123.41             |
| Cash Receipts:                               |                            |                         |
| Boiler Inspection Fees                       | 38,650.19                  | 34,749.28               |
| Other Collections, Fees, Licenses and Income | 131.50                     | 84.00                   |
| Inter-Agency Federal Payments                | <u>432.50</u>              | <u>567.00</u>           |
|  | 39,214.19                  | 35,400.28               |
| <br>TOTAL CASH TO ACCOUNT FOR                | <br><u>\$125,532.95</u>    | <br><u>\$109,523.69</u> |
| <br>Disbursements:                           |                            |                         |
| Personal Services                            | 19,920.00                  | 11,620.00               |
| Annual Increment                             | 216.00                     | 180.00                  |
| Employee Benefits                            | 8,193.93                   | 4,505.95                |
| Current Expenses                             | 9,911.28                   | 6,898.98                |
| Equipment                                    | <u>5,292.64</u>            | <u>0.00</u>             |
|  | 43,533.85                  | 23,204.93               |
| <br>Ending Balance:                          |                            |                         |
| State Treasury                               | <u>81,999.10</u>           | <u>86,318.76</u>        |
| <br>TOTAL CASH ACCOUNTED FOR                 | <br><u>\$125,532.95</u>    | <br><u>\$109,523.69</u> |

WEST VIRGINIA DIVISION OF LABOR  
 STATEMENTS OF CASH RECEIPTS AND DISBURSEMENTS  
 SPECIAL REVENUE

|   | <u>Year Ended June 30,</u> |                   |
|---|----------------------------|-------------------|
|   | <u>1994</u>                | <u>1993</u>       |
| <u>Special Equipment Fund</u>                   |                            |                   |
| <u>Fund 3183-099 (Account 8129-20)</u>          |                            |                   |
| Beginning Balance:                              |                            |                   |
| State Treasury                                  | \$223.11                   | \$223.11          |
| Cash Receipts                                   | <u>0.00</u>                | 0.00              |
| TOTAL CASH TO ACCOUNT FOR                       | <u>\$223.11</u>            | <u>\$223.11</u>   |
| Disbursements                                   | 0.00                       | 0.00              |
| Ending Balance:                                 |                            |                   |
| State Treasury                                  | <u>223.11</u>              | <u>223.11</u>     |
| TOTAL CASH ACCOUNTED FOR                        | <u>\$223.11</u>            | <u>\$223.11</u>   |
| <br>  |                            |                   |
| <u>Insurance Proceeds for Stolen Truck Fund</u> |                            |                   |
| <u>Fund 3184-099 (Account 8129-28)</u>          |                            |                   |
| Beginning Balance:                              |                            |                   |
| State Treasury                                  | \$5,798.54                 | \$5,798.54        |
| Cash Receipts                                   | <u>0.00</u>                | 0.00              |
| TOTAL CASH TO ACCOUNT FOR                       | <u>\$5,798.54</u>          | <u>\$5,798.54</u> |
| Disbursements                                   | 0.00                       | 0.00              |
| Ending Balance:                                 |                            |                   |
| State Treasury                                  | <u>5,798.54</u>            | <u>5,798.54</u>   |
| TOTAL CASH ACCOUNTED FOR                        | <u>\$5,798.54</u>          | <u>\$5,798.54</u> |

WEST VIRGINIA DIVISION OF LABOR  
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS  
SPECIAL REVENUE

|  | <u>Year Ended June 30,</u> |                         |
|--|----------------------------|-------------------------|
|  | <u>1994</u>                | <u>1993</u>             |
| <u>West Virginia Manufactured Housing</u>    |                            |                         |
| <u>Construction/SAF Standards Act Fund</u>   |                            |                         |
| <u>Fund 3185-099 (Account 8129-31)</u>       |                            |                         |
| Beginning Balance:                           |                            |                         |
| State Treasury                               | \$104,228.87               | \$56,028.87             |
| Cash Receipts:                               |                            |                         |
| Department of Housing and Urban Development  | 0.00                       | 9,720.00                |
| Other Collections, Fees, Licenses and Income | <u>115,448.00</u>          | <u>92,850.00</u>        |
|  | 115,448.00                 | 102,570.00              |
| <br>TOTAL CASH TO ACCOUNT FOR                | <br><u>\$219,676.87</u>    | <br><u>\$158,598.87</u> |
| <br>Disbursements:                           |                            |                         |
| Personal Services                            | \$47,112.60                | \$10,364.14             |
| Annual Increment                             | 439.20                     | 0.00                    |
| Employee Benefits                            | 16,276.92                  | 2,803.59                |
| Current Expenses                             | 38,732.15                  | 9,120.91                |
| Repairs and Alterations                      | 0.00                       | 9,957.00                |
| Equipment                                    | 14,453.34                  | 581.36                  |
| Investments                                  | <u>37,200.00</u>           | <u>21,543.00</u>        |
|  | 154,214.21                 | 54,370.00               |
| <br>Ending Balance:                          |                            |                         |
| State Treasury                               | <u>65,462.66</u>           | <u>104,228.87</u>       |
| <br>TOTAL CASH ACCOUNTED FOR                 | <br><u>\$219,676.87</u>    | <br><u>\$158,598.87</u> |

WEST VIRGINIA DIVISION OF LABOR  
STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS  
SPECIAL REVENUE

|  | <u>Year Ended June 30,</u> |                     |
|--|----------------------------|---------------------|
|  | <u>1994</u>                | <u>1993</u>         |
| <u>Contractor Licensing Board Fund - Unclassified</u>    |                            |                     |
| <u>Fund 3186-099 (Account 8129-32)</u>                   |                            |                     |
| Beginning Balance:                                       |                            |                     |
| State Treasury   | \$242,817.51               | \$467,608.73        |
| Cash Receipts  | <u>0.00</u>                | 0.00                |
| TOTAL CASH TO ACCOUNT FOR                                | <u>\$242,817.51</u>        | <u>\$467,608.73</u> |
| Disbursements:   |                            |                     |
| Current Expenses   | 0.00                       | 151,873.53          |
| Repairs and Alterations                                  | 0.00                       | 28,545.57           |
| Equipment  | 0.00                       | 44,012.12           |
| Refunds  | 0.00                       | 360.00              |
| Transfer to Contractor Licensing Fund -<br>Fund 3187-640 | <u>242,817.51</u>          | <u>0.00</u>         |
|  | 242,817.51                 | 224,791.22          |
| Ending Balance:  |                            |                     |
| State Treasury   | <u>0.00</u>                | <u>242,817.51</u>   |
| TOTAL CASH ACCOUNTED FOR                                 | <u>\$242,817.51</u>        | <u>\$242,817.51</u> |

WEST VIRGINIA DIVISION OF LABOR

STATEMENTS OF APPROPRIATIONS AND EXPENDITURES

|  | <u>Year Ended June 30,</u> |                    |
|--|----------------------------|--------------------|
|  | <u>1994</u>                | <u>1993</u>        |
| <u>Contractor Licensing Fund - Personal Services</u>     |                            |                    |
| <u>Fund 3187-001 (Account 8128-00)</u>                   |                            |                    |
| Appropriations   | \$458,268.00               | \$458,268.00       |
| Expenditures:  |                            |                    |
| Personal Services  | 432,692.60                 | 437,913.42         |
| Employee Benefits  | 0.00                       | 910.63             |
|  | <u>432,692.60</u>          | <u>438,824.05</u>  |
|  | 25,575.40                  | 19,443.95          |
| Transmittals Paid After June 30                          | <u>0.00</u>                | <u>77.50</u>       |
| Balance  | <u>\$25,575.40</u>         | <u>\$19,521.45</u> |
| <br><u>Contractor Licensing Fund -Unclassified</u>       |                            |                    |
| <u>Fund 3187-099 (Account 8128-19)</u>                   |                            |                    |
| Appropriations   | \$661,796.00               | \$661,796.00       |
| Expenditures:  |                            |                    |
| Current Expenses   | 481,504.15                 | 526,417.58         |
| Repairs and Alterations                                  | 421.95                     | 12,717.88          |
| Equipment  | <u>84,287.86</u>           | 122,641.53         |
|  | <u>566,213.96</u>          | <u>661,776.99</u>  |
|  | 95,582.04                  | 19.01              |
| Transmittals Paid After June 30                          | <u>42,073.46</u>           | <u>67,519.69</u>   |
| Balance  | <u>\$137,655.50</u>        | <u>\$67,538.70</u> |
| <br><u>Contractor Licensing Fund - Employee Benefits</u> |                            |                    |
| <u>Fund 3187 -010 (Account 8128-35)</u>                  |                            |                    |
| Appropriations   | \$177,016.00               | \$176,678.00       |
| Expenditures   | <u>154,767.69</u>          | <u>167,070.21</u>  |
|  | 22,248.31                  | 9,607.79           |
| Transmittals Paid After June 30                          | <u>1,066.83</u>            | <u>0.00</u>        |
| Balance  | <u>\$23,315.14</u>         | <u>\$9,607.79</u>  |

WEST VIRGINIA DIVISION OF LABOR  
STATEMENT OF APPROPRIATIONS AND EXPENDITURES

|   | <u>Year Ended June 30,</u> |                 |
|---|----------------------------|-----------------|
|   | <u>1994</u>                | <u>1993</u>     |
| <u>Contractor Licensing Fund - Annual Increment</u> |                            |                 |
| <u>Fund 3187 -004 (Account 8128-66)</u>             |                            |                 |
| Appropriations                                      | \$4,590.00                 | \$3,258.00      |
| Expenditures  | <u>4,149.00</u>            | <u>3,258.00</u> |
|   | 441.00                     | 0.00            |
| Transmittals Paid After June 30                     | <u>0.00</u>                | <u>0.00</u>     |
| Balance   | <u>\$441.00</u>            | <u>\$0.00</u>   |



|                                    | <u>Year Ended June 30,</u> |                           |
|------------------------------------|----------------------------|---------------------------|
|                                    | <u>1994</u>                | <u>1993</u>               |
| Ending Balance:                    |                            |                           |
| State Treasury                     | \$815,389.30               | \$311,807.94              |
| Disbursements:                     |                            |                           |
| Personal Services                  | 432,692.60                 | 438,824.05                |
| Employee Benefits                  | 154,767.69                 | 167,070.21                |
| Current Expenses                   | 481,504.15                 | 526,417.58                |
| Repairs and Alterations            | 421.95                     | 12,717.88                 |
| Equipment                          | 84,287.86                  | 122,641.53                |
| Annual Increment                   | 4,149.00                   | 3,258.00                  |
| Refunds                            | <u>0.00</u>                | <u>5,315.00</u>           |
|                                    | 1,157,823.25               | 1,276,244.25              |
| Add Transmittals Paid July 1-31    |                            |                           |
| Beginning; and (Less) Transmittals |                            |                           |
| Paid July 1-31 Ending:             |                            |                           |
| Personal Services                  | 77.50                      | 0.00                      |
| (Personal Services)                | 0.00                       | (77.50)                   |
| Employee Benefits                  | 0.00                       | 0.00                      |
| (Employee Benefits)                | (1,066.83)                 | 0.00                      |
| Current Expenses                   | 38,838.44                  | 0.00                      |
| (Current Expenses)                 | (27,354.97)                | (38,838.44)               |
| Repairs and Alterations            | 891.75                     | 0.00                      |
| (Repairs and Alterations)          | 0.00                       | (891.75)                  |
| Equipment                          | 27,789.50                  | 0.00                      |
| (Equipment)                        | <u>(14,718.49)</u>         | <u>(27,789.50)</u>        |
|                                    | <u>24,456.90</u>           | <u>(67,597.19)</u>        |
|                                    | <u>1,182,280.15</u>        | <u>1,208,647.06</u>       |
| <br>TOTAL CASH ACCOUNTED FOR       | <br><u>\$1,997,669.45</u>  | <br><u>\$1,520,455.00</u> |

WEST VIRGINIA DIVISION OF LABOR  
 STATEMENTS OF APPROPRIATIONS AND EXPENDITURES  
 FEDERAL FUNDS

|   | <u>Year Ended June 30,</u> |                    |
|---|----------------------------|--------------------|
|   | <u>1994</u>                | <u>1993</u>        |
| <u>Consolidated Federal Funds</u>                   |                            |                    |
| <u>  General Administration Fund - Unclassified</u> |                            |                    |
| <u>  Fund 8706-096 (Account 7884-14)</u>            |                            |                    |
| Appropriations                                      | \$317,883.00               | \$315,916.00       |
| Supplemental Appropriation - Governor               | <u>43,774.00</u>           | <u>45,742.00</u>   |
|   | 361,657.00                 | 361,658.00         |
| Expenditures:                                       |                            |                    |
| Personal Services                                   | 180,733.33                 | 159,219.43         |
| Employee Benefits                                   | 64,522.21                  | 54,956.73          |
| Annual Increment                                    | 3,859.00                   | 3,996.00           |
| Current Expenses                                    | 73,729.22                  | 84,862.10          |
| Repairs and Alterations                             | 1,329.50                   | 99.50              |
| Equipment   | <u>22,872.29</u>           | <u>5,997.28</u>    |
|   | <u>347,045.55</u>          | <u>309,131.04</u>  |
|   | 14,611.45                  | 52,526.96          |
| Transmittals Paid After June 30                     | <u>1,494.27</u>            | <u>(82.94)</u>     |
| Balance   | <u>\$16,105.72</u>         | <u>\$52,444.02</u> |

WEST VIRGINIA DIVISION OF LABOR

STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

CASH CONTROL - FUND 8706-700 (ACCOUNT 7884-99)

|                                    | <u>Year Ended June 30,</u> |                     |
|------------------------------------|----------------------------|---------------------|
|                                    | <u>1994</u>                | <u>1993</u>         |
| Beginning Balance:                 |                            |                     |
| State Treasury                     | \$129,304.93               | \$115,013.65        |
| Cash Receipts:                     |                            |                     |
| Unites States Department of Labor  | <u>308,650.77</u>          | <u>323,422.32</u>   |
| TOTAL CASH TO ACCOUNT FOR          | <u>\$437,955.70</u>        | <u>\$438,435.97</u> |
| Disbursements:                     |                            |                     |
| Personal Services                  | 180,733.33                 | 159,219.43          |
| Employee Benefits                  | 64,522.21                  | 54,956.73           |
| Current Expenses                   | 73,729.22                  | 84,862.10           |
| Repairs and Alterations            | 1,329.50                   | 99.50               |
| Equipment                          | 22,872.29                  | 5,997.28            |
| Annual Increment                   | <u>3,859.00</u>            | <u>3,996.00</u>     |
|                                    | 347,045.55                 | 309,131.04          |
| Add Transmittals Paid July 1-31    |                            |                     |
| Beginning; and (Less) Transmittals |                            |                     |
| Paid July 1-31 Ending              |                            |                     |
| Current Expenses                   | 0.00                       | 0.00                |
| (Current Expenses)                 | <u>(1,494.27)</u>          | <u>0.00</u>         |
|                                    | <u>(1,494.27)</u>          | <u>0.00</u>         |
|                                    | <u>345,551.28</u>          | <u>309,131.04</u>   |
| Ending Balance:                    |                            |                     |
| State Treasury                     | <u>92,404.42</u>           | <u>129,304.93</u>   |
| TOTAL CASH ACCOUNTED FOR           | <u>\$437,955.70</u>        | <u>\$438,435.97</u> |

STATE OF WEST VIRGINIA

OFFICE OF LEGISLATIVE AUDITOR, TO WIT:

I, Thedford L. Shanklin, CPA, Director of the Legislative Post Audit Division, do hereby certify that the report of audit appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 10<sup>th</sup> day of July,  
1995.

*Thedford L. Shanklin*

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Thedford L. Shanklin, CPA, Director  
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the West Virginia Division of Labor; Governor; Attorney General; and State Auditor.