

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

FILED
JAN 8 3 00 PM '03
OFFICE OF THE SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

State Auditor's Office
AGENCY: _____ TITLE NUMBER: 155

West Virginia Code 12-3-10c(a)
CITE AUTHORITY _____

AMENDMENT TO AN EXISTING RULE: YES _____ NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 4

TITLE OF RULE BEING PROPOSED: Transaction Fee and Rate Structure

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

\$11.20

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:

LEGISLATIVE RULE TITLE: Transaction Fee and Rate Structure

1. Authorizing statute(s) citation 12-3-10c(a)

2. a. Date filed in State Register with Notice of Hearing
November 21, 1997

- b. What other notice, including advertising, did you give of the hearing?
Sent notices to Chief Fiscal Officers of each State Agency.

- c. Date of Hearing(s) Public Comment period ended December 22, 1997

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached 12 No comments received 12

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. Name and phone number(s) of agency person(s) to contact for additional information:
Paul S. Mollohan 558-2251

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: TRANSACTION FEE AND RATE STRUCTURE

Type of Rule: Legislative Interpretive Procedural

Agency: State Auditor

Address: W-100, State Capitol
Charleston, WV
25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT	400,000		400,000	750,000	750,000
OTHER					

2. Explanation of above estimates:

The fee is based upon transactions received by the State Auditor from State agencies for processing on the centralized accounting system. Based on receiving approximately 1.2 million transactions per year, the amount indicated would be generated annually. Approximately sixty-five (65) percent or more of the cost will be from Federal funds.

3. Objectives of these rules:

The funds will be used to acquire, develop, implement, and support a new statewide payroll system to replace the current system. The payroll system now in use was installed in the early 1970's and does not provide the minimum reporting, user access, or functionality. The current system is not Year 2000 compliant.

STATE AUDITOR'S OFFICE
SELECTED AGENCIES

ESTIMATED AGENCY TRANSACTION COST
TRANSACTION FEE ANNUALIZED FOR 1999

<u>AGENCY</u>	<u>EXPENDITURE TOTAL</u>	<u>FEDERAL FUNDS</u>	<u>TRANSACTIONS</u>	<u>ANNUAL FEE</u>	<u>PERCENTAGE OF EXPENDITURES</u>
Department of Transportation	902,701,000	342,301,000	166,385	166,917	.0002
Rehabilitation Services	52,161,000	38,636,000	87,132	87,411	.0016
Higher Education	743,352,000	21,715,000	283,473	284,380	.0004
Public Service Commission	14,950,000	1,031,000	6,885	6,907	.0005
Risk & Insurance Management	68,805,000	0	2,111	2,118	.00003
Health & Human Services	2,020,778,000	1,166,165,000	150,161	150,642	.00007
Attorney General's Office	3,717,000	0	5,613	5,631	.0015
Division of Labor	4,688,000	351,000	25,503	25,585	.0054
Environmental Protection	126,831,000	58,303,000	28,082	28,172	.0002

December 12, 1997

155CSR4

TITLE 155
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR

FILED
JAN 6 3 31 PM '98
OFFICE OF THE CLERK
SECRETARY OF STATE

SERIES 4
TRANSACTION FEE AND RATE STRUCTURE

§155-4-1. General:

1.1 This rule authorizes the State Auditor and State Treasurer to assess joint transaction fees for all financial documents that are received by the Auditor to be processed on the State central accounting system.

1.2 West Virginia Code §12-3-10c authorizes the Auditor and Treasurer to assess transaction fees in order to promote and enhance the use of the state purchasing card program established by the provisions of §12-3-10a and to maintain and develop the fiscal operations and accounting systems of the state. Transaction fees shall be prescribed by legislative rule according to article three, chapter twenty-nine-a of the West Virginia Code.

1.3 A penalty fee may be assessed against spending units of state government who submit claims for payment of goods and services when those claims are authorized to be paid by use of a state purchasing card and the spending unit has failed to utilize the state purchasing card.

1.4 A transaction fee may be assessed for every transaction received electronically or otherwise by the Auditor from spending units of state government.

1.5 Authority: This rule is issued under authority of the West Virginia Code §12-3-10c.

1.6 Filing Date: _____, 1997

1.7 Effective Date: _____, 1998

§155-4-2 Definitions:

2.1 "Auditor" means the Auditor of the State of West Virginia.

"OMB" means the Federal agency Office of Management and Budget.

"Purchase Card" or "card" means the charge card authorized by the West Virginia Code §12-3-10a.

"Technology fund" means the fund created in the state treasury as authorized by West Virginia Code §12-3-10c.

"Treasurer" means the Treasurer of the State of West Virginia.

"West Virginia Financial Information Management System, 'WVFIMS'", means the centralized accounting system used by all state agencies for processing financial transactions and maintained by the Auditor and the Department of Administration.

§155-4-3 Transaction Fee Structure:

3.1 The transaction fee structure and rate shall be in compliance with OMB Circulars A-87, the "Cost Principles for State, Local, and Indian Tribal Governments", Circular A-21, the "Cost Principles for Educational Institutions", and Circular 110, the "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education,

Hospitals, and Other Non-Profit Organizations", and all other Federal standards and guidelines.

3.2 The transaction fee structure shall be reviewed each fiscal year by the Auditor and Treasurer to determine whether any changes are required to maintain Federal and state compliance. The fee shall not exceed the lesser of the rate as determined in section 155-4-3.1 or \$2.00 per transaction.

3.3 The Auditor and Treasurer shall maintain in their respective offices all necessary documentation, including the detailed cost information and financial schedules, that were used in computing the transaction fee rate.

§155-4-4 Penalty Fee Structure:

4.1 The Auditor may assess a penalty fee for transactions received for payment when those transactions are authorized to be paid by the state purchasing card and the spending unit did not utilize the state purchasing card. The Auditor shall make provisions for certain purchases, such as emergency purchases or purchases made where the card could not be utilized or other circumstances as determined by the Auditor, to be made without penalty when the card was not used.

4.2 The penalty fee assessed shall be a multiple of the rate per transaction as determined in section 155-4-3. Beginning January 1, 2000, or thereafter, the penalty fee assessed shall be five times the rate determined in section 155-4-3.

§155-4-5 Disposition of Fees:

5.1 All fees collected shall be deposited in the state treasury and credited to the "Technology

Support and Acquisition Fund" as authorized by the West Virginia Code §12-3-10c to be administered and maintained by the Auditor.

5.2 The Auditor and Treasurer shall divide the collections of the fund between their respective offices in the proportionate share that each office's cost is to the total cost in the rate base.

5.3 The Auditor shall make periodic transfers of funds to the Treasurer's Office, as jointly agreed upon, of the funds collected, provided, that at least two transfers occur during each fiscal year.

§155-4-6 Accounting Requirements:

6.1 The Auditor shall bill each agency for every transaction, as defined and used in the state's central accounting system, WVFIMS, when received for processing.

6.2 The Auditor shall calculate and bill each agency on a monthly basis.

6.3 The Auditor and Treasurer shall each maintain in their respective offices financial statements of the technology fund according to generally accepted accounting principles.

6.4 The Auditor and Treasurer shall include the fund financial data for their respective offices in the annual statewide cost allocation plan that is submitted to the Federal agency.

6.5 The fund shall be subject to Federal audit as required for the annual statewide single audit.

155CSR4

TITLE 155
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR

SERIES 4
TRANSACTION FEE AND RATE STRUCTURE

SUMMARY OF COMMENTS RECEIVED FROM STATE AGENCIES

January 5, 1998

1. Costs to Higher Education

Although the fee does represent an increase in operating expenses to Higher Education, the expense incurred would represent .04%, four ten-thousands of one percent, of the annual budget. However, part of the annual expense is reimbursed through Federal direct costs allocations.

2. Budget oversight of Auditor and Treasurer

The Auditor and Treasurer are subject to the same budgetary process as any other State agency. Any increase in spending must be justified and approved by the Governor and Legislature.

3. Implementation of fee at mid-year

The transaction fee for the remainder of Fiscal Year 1998 will be \$0.5016, which is one-half the allowable rate of \$1.0032 for fiscal 1999. The rate was reduced for Fiscal Year 1998 to allow for budget adjustments by the agencies.

4. Increases in the transaction rate

The rate may only be changed based upon actual costs incurred for hardware and software and may not be arbitrarily increased. As depreciation and interest expenses decline from year to year, the rate will decline.

5. Implementation of penalty fee

The penalty fee for not using the purchasing card for eligible purchases has been changed to January 1, 2000, or thereafter. Exceptions to the penalty will be made for emergency purchases, non-acceptance of the card, other circumstances beyond the control of the agency, or as determined by the Auditor.

6. Use of the funds

The funds are to be used for the acquisition of hardware and software. The proceeds will be used toward the purchase and implementation of a statewide payroll system. All agencies will realize a certain amount of cost savings throughout the payroll application with the elimination of paper and consolidation of payroll reporting.

TRANSACTION FEE COMMENTS RECEIVED BY PHONE

DATE:	PERSON CALLING	AGENCY
12/3/97	Jim Cannon	Concord College
	Agreed with the 1/1/00 starting date for the penalty fee.	
12/3/97	Rick Johnston	Motor Vehicles
	Agreed with the 1/1/00 starting date for the penalty fee.	
12/10/97	Bill Feazelle	Dept of Highways
	Verification of the penalty fee implementation date in the cover letter and starting date for the standard fee.	



DIVISION OF ENVIRONMENTAL PROTECTION

CECIL H. UNDERWOOD
GOVERNOR

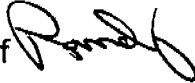
10 McJunkin Road
Nitro, WV 25143-2506

JOHN E. CAFFREY
DIRECTOR

December 15, 1997

M E M O R A N D U M

TO: Paul S. Mollohan, Chief Clerk
State Auditor's Office

FROM: Randy Huffman, Chief 
Office of Administration

SUBJECT: **PROPOSED RULES FOR TRANSACTION FEES**

In response to the November 24, 1997, memorandum from Glen B. Gainer III, State Auditor, regarding the above-referenced, we offer the following comments:

The State Auditor should provide the detail of the methodology for the calculation of any and all fees. The rules for transaction and penalty fees should state a "not to exceed amount."

Section 1.1--DEP strongly opposes a transaction fee for every transaction received by the Auditor's Office. DEP is currently being charged three (3) FIMS charges (FIMS Expenditures, FIMS Transactions, FIMS Accounts), plus the cost to use the mainframe. The costs total over \$2,500 per month just for FIMS usage alone.

Section 3.3--What detailed information will the agency receive? The agency must receive details in order to cost allocate the fees to the proper Org Units.

Section 4.2--The penalty fee assessed should be the only fee assessed. The code was intended to encourage use of the purchasing card, not to burden the agencies with additional costs. Also, your memorandum states that the rates will become effective January 1, 2000, yet your rule states through December 31, 1998. Which is correct?

Memo to Paul S. Mollohan
Page 2
December 15, 1997

Section 6.1--The agency must have detailed backup that designates all extended orgs that paid an invoice for which the Auditor is billing. This invoice should be separate from any other billing (i.e., not on the IS&C bill).

If the State Auditor insists on charging both transaction fees and penalty fees, the invoice should reflect the charges separately. If the agencies are going to be required to pay transaction fees, then the State Auditor should allow the agencies to use the purchasing card for as many purchases as possible. The per transaction limit should be raised to allow agencies to better utilize the purchasing card. We should be able to use it for any and all purchases under a certain dollar limit (except for encumbered purchase orders).

As federal and state funds decrease, our agencies will be faced with budgeting constraints, and any additional fees imposed will cause undo hardships on our programs that are mandated to clean up the environment.

Any consideration given to these comments will be genuinely appreciated. Should you have questions or need additional information, please let me know.

RH/gb



State of West Virginia
OFFICE OF THE STATE AUDITOR
CHARLESTON 25305

GLEN B. GAINER, III
STATE AUDITOR

PAUL S. MOLLOHAN
CHIEF CLERK

December 17, 1997

Randy Huffman, Chief
Office of Administration
Division of Environmental Protection
10 McJunkin Road
Nitro, WV 25143-2506

Dear Mr. Huffman:

I have received your letter concerning the comments for the transaction and penalty fee as authorized by Senate Bill 563 passed during the 1997 Legislative session.

Your comment for the transaction fee to be set at a "not to exceed rate" is being considered. The penalty fee rate is set at a multiple of the standard transaction rate.

Although the detailed cost analysis was not sent to the agencies, the financial schedules are available for inspection by any interested party. Three private accounting firms with experience in auditing Federal reimbursements bid on providing assistance to this office. The firm, Suttle & Stalnaker of Charleston, was chosen to assure that all costs that were included in the rate structure met all Federal standards and guidelines. I have included a summary statement that will provide the cost categories and the amounts of each for fiscal year 1997 which is the rate base year.

The billing information sent to the agencies will show the number of WVFIMS transactions by type (invoice, deposit, revenue refund, etc.).

As you stated, West Virginia Code 12-3-10c(a) does provide that the funds are to be used for the promotion and enhancement of the purchasing card program. The same section

Randy Huffman, Chief
Division of Environmental Protection
Page 2

also states that the proceeds are to be used to "...maintain and develop the fiscal operations and accounting systems of the state ...". The fee will provide a portion of the funds to apply to the acquisition and implementation of a new statewide payroll system.

Although the proposed rules state that the implementation date for penalty fees is through December 31, 1998, these dates were included to provide the Auditor with the option of applying these penalties to agencies that were not supportive of the purchasing card program and the related cost savings to the State. In order to give all agencies sufficient time to fully develop their respective purchasing card programs, the Auditor has agreed to waive the penalty fee until that time or afterwards.

The monthly invoice will be separate from the IS&C bill and each fee will be shown separately. The billing statement received from IS&C is not related. The fee is based on transactions received by this office. If the transaction is not released to organization 1200, the agency will not be billed for it.

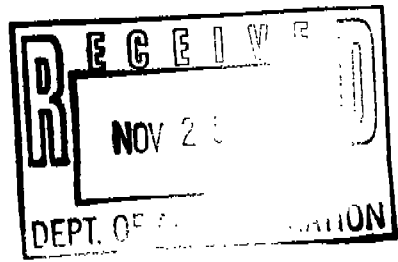
The purchasing card transaction limit is in the process of being increased to \$1,000. Certain utility transactions will have an unlimited amount. These changes will be implemented sometime during the next Legislative session.

I trust that the above response answers your concerns. Our goal is to keep the costs to a minimum. If I can be of further assistance to you in this regard, please feel free to call me at 558-2251.

Sincerely,

Paul S. Mollohan
Chief Clerk

12/5/97
DT:
Per your request



Glen B. Gainer III
State Auditor

R. Ross Guyer
Chief of Staff

Paul S. Mollohan
Chief Clerk

State of West Virginia

Office of the State Auditor
Building 1, Room W-100
Charleston, West Virginia 25305

Telephone: (304) 558-2251
FAX: (304) 558-5200
Internet: <http://www.wvauditor.com>

MEMORANDUM

TO: All State Agencies

FROM: Glen B. Gainer III *Glen B. Gainer III*
State Auditor

DATE: November 24, 1997

RE: PROPOSED RULES FOR TRANSACTION FEES

CURT
EVAN
DICK
PLEASE
COMMENT/
RETURN TO
ME BY
12/5
DT
12/1

Enclosed is a copy of the proposed rules by the State Auditor's Office with regard to transaction fees authorized by Senate Bill 563, passed during the 1997 Legislative Session. This office is requesting comments from the affected agencies and individuals. Beginning January 1, 2000, or thereafter, a penalty fee will be implemented for not using the purchasing card for qualified purchases. The estimated cost per standard transaction is \$1.00.

Please review the enclosed rules and forward written comments to:

Paul S. Mollohan, Chief Clerk
State Auditor's Office
State Capitol Complex
Building 1, Room W-100
Charleston, WV 25305

*Paul M. said this
is what he estimates his
current cost to be if a
transaction is processed
electronically - not manual*

To ensure consideration, this office must receive all comments no later than 5:00 p.m., Monday, December 22, 1997.

Thank you in advance for your assistance.

GBGIII/lq
Enclosure

*The transaction fee
has nothing to do with
the P/C card. This fee will
be assessed regardless to finance
the purchasing hdq. & software.*

155CSR4

TITLE 155
LEGISLATIVE RULE
WEST VIRGINIA STATE AUDITOR

SERIES 4
TRANSACTION FEE AND RATE STRUCTURE

§155-4-1. General:

1.1 This rule authorizes the State Auditor and State Treasurer to assess joint transaction fees for all financial documents that are received by the Auditor to be processed on the State central accounting system.

1.2 West Virginia Code §12-3-10c authorizes the Auditor and Treasurer to assess transaction fees in order to promote and enhance the use of state purchasing card program established by the provisions of §12-3-10a and to maintain and develop the fiscal operations and accounting systems of the state. Transaction fees shall be prescribed by legislative rule according to article three, chapter twenty-nine-a of the West Virginia Code.

1.3 A penalty fee may be assessed against spending units of state government who submit claims for payment of goods and services when those claims are authorized to be paid by use of a state purchasing card and the spending unit has failed to utilize the state purchasing card.

1.4 A transaction fee may be assessed for every transaction received electronically or otherwise by the Auditor from spending units of state government.

1.5 Authority: This rule is issued under authority of the West Virginia Code §12-3-10c.

1.6 Filing Date: _____, 1997

1.7 Effective Date: _____, 1997

§155-4-2 Definitions:

2.1 "Auditor" means the Auditor of the State of West Virginia.

"OMB" means the Federal agency Office of Management and Budget.

"Purchase Card" or "card" means the charge card authorized by the West Virginia Code §12-3-10a.

"Technology fund" means the fund created in the state treasury as authorized by West Virginia Code §12-3-10c.

"Treasurer" means the Treasurer of the State of West Virginia.

"West Virginia Financial Information Management System, 'WVFIMS'", means the centralized accounting system used by all state agencies for processing financial transactions and maintained by the Auditor and the Department of Administration.

§155-4-3 Transaction Fee Structure:

3.1 The transaction fee structure and rate shall be in compliance with OMB Circulars A-87, the "Cost Principles for State, Local, and Indian Tribal Governments", Circular A-21, the "Cost Principles for Educational Institutions", and Circular 110, the "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and

November 20, 1997

Page 2

If you reference the documents is it legal since those docs are subject to chg?

Other Non-Profit Organizations", and all other Federal standards and guidelines.

3.2 The transaction fee structure shall be reviewed each fiscal year by the Auditor and Treasurer to determine whether any changes are required to maintain Federal and state compliance.

3.3 The Auditor and Treasurer shall maintain in their respective offices all necessary documentation, including the detailed cost information and financial schedules, that were used in computing the transaction fee rate.

§155-4-4 Penalty Fee Structure:

4.1 The Auditor may assess a penalty fee for transactions received for payment when those transactions are ~~authorized~~ to be paid by the state purchasing card and the spending unit failed to utilize the state purchasing card. *use of*

qualified 4.2 The penalty fee assessed shall be a multiple of the rate per transaction as determined in Section §155-4-3. Through December 31, 1998, the penalty fee assessed shall be three times the rate determined in Section §155-4-3. Beginning January 1, 1999, the penalty fee assessed shall be five times the rate determined in Section §155-4-3. *But*

§155-4-5 Disposition of Fees:

5.1 All fees collected shall be deposited in the state treasury and credited to the "Technology Support and Acquisition Fund" as authorized by the West Virginia Code §12-3-10c to be administered and maintained by the Auditor. *Without the circulars referenced I can't comment.*

Doesn't indicate how Auditor will assess the fee to the agency.

5.2 The Auditor and Treasurer shall divide the collections of the fund between their respective offices in the proportionate share that each office's cost is to the total cost in the rate base.

5.3 The Auditor shall make periodic transfers of funds to the Treasurer's Office, as jointly agreed upon, of the funds collected, provided, that at least two transfers occur during each fiscal year.

↖ Is twice @ yr enough?

§155-4-6 Accounting Requirements:

6.1 The Auditor shall bill each agency for every transaction, as defined and used in the state's central accounting system, WVFIMS, when received for processing.

6.2 The Auditor shall calculate and bill each agency on a monthly basis.

6.3 The Auditor and Treasurer shall each maintain in their respective offices financial statements of the technology fund according to generally accepted accounting principles.

6.4 The Auditor and Treasurer shall include the fund financial data for their respective office in the annual statewide cost allocation plan that is submitted to the Federal agency.

6.5 The fund shall be subject to Federal audit as required for the annual statewide single audit.



State of West Virginia
OFFICE OF THE STATE AUDITOR
CHARLESTON 25305

GLEN B. GAINER, III
STATE AUDITOR

PAUL S. MOLLOHAN
CHIEF CLERK

January 5, 1998

Dave Tincher, Director
Purchasing Division
Department of Administration

Dear Dave:

I have received your letter concerning the comments for the transaction and penalty fee as authorized by Senate Bill 563 passed during the 1997 Legislative session.

Your comment as to how the fee will be assessed for each agency was reviewed with input from IS&C. The basis for the fee is each WVFIMS transaction received by the Auditor each month. All agencies will be billed for the transactions sent based upon the authorizing agency. The billing information sent to the agencies each month will show the number of WVFIMS transactions by type (invoice, deposit, revenue refund, etc.).

Thanks for your time and comments. If I can be of further assistance to you concerning these rules, feel free to call me at 558-2251.

Sincerely,

Paul S. Mollohan
Chief Clerk

STATE OF WEST VIRGINIA



CECIL H. UNDERWOOD
GOVERNOR

DEPARTMENT OF ADMINISTRATION
PUBLIC DEFENDER SERVICES
BUILDING 3, ROOM 330
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WEST VIRGINIA 25305-0730
304-558-3905
FAX 304-558-1098

JOHN A. ROGERS
EXECUTIVE DIRECTOR

4 December 1997

Mr. Paul S. Mollohan
State Auditor's Office
Bldg. 1, Room W-100
State Capitol

Re: Transaction fees

Dear Mr. Mollohan:

I am writing in response to your solicitation of comment on the rules implementing W.Va. Code 12-3-10c, enacted during the 1997 Regular Session of the Legislature. It is my understanding that you intend to impose a \$1 per transaction fee beginning 1 January 1998. To put the case in simplest terms, an agency of this size cannot afford a transaction cost as proposed.

During the last several years, every function in state government seems to have set a "user fee" (e.g., Personnel fees, FIMS transactions fees, accounting service fees, training fees, etc.) While this sort of charge-back procedure may be useful in determining actual costs of doing business, not only does this approach add substantial processing costs, it punishes the very agencies which should be helped. Small agencies like ours handle substantial amounts of money at very low cost. Adding per-transaction charges dramatically raises those costs.

In July, 1996 this agency submitted its budget request for the current fiscal year (FY 97-98). At that time we were unaware of the exact status of the various fees mentioned above. While some provision was made for those fees we had no knowledge of the \$5,000 assessment for the Chief Technology Office, nor this latest "transaction fee," estimated at \$10,000.

To put this latest charge in perspective, the total discretionary expense budget of this office is approximately \$14,000. These two unexpected charges total \$15,000. Ironically, since these fees are both designed to advance the cause of technological improvement, their imposition on this office will leave us with absolutely no funds for improvements, or, indeed, to even replace existing equipment. We have a very small fund which is generated from sales of publications which can be used for miscellaneous purposes but that fund is set aside for emergencies and is not part of our normal operating budget.

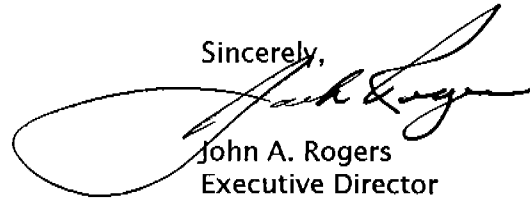
6,250 trans for FY 97

W.VA. Code 12-3-10c recites that the purpose of these fees is to "promote and enhance the use of the state purchasing card program." Bankrupting this agency will do nothing to encourage the use of the purchasing card. Indeed, the punitive fee to be assessed for not using the card is the only fee clearly related to the intent of the Legislature. The transaction fee to which I object appears to be much broader in scope and cannot be related solely to the promotion of the purchasing card.

While I am sympathetic to other agencies with severe budget constraints, this fee works a gross injustice to small, efficient agencies like this one. Our central office budget, including salaries, rose above 1987 levels for the first time last year. Quite simply, we cannot continue to absorb costs designed for large processing units which have some flexibility in their spending.

I hope that some adjustment could be made in your plans to accommodate small agencies or at least to defer imposition of these fees until July, 1999 so that the next budgeting cycle in July, 1998 can be used to build in additional costs.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Rogers", written over a large, stylized flourish that loops back to the left.

John A. Rogers
Executive Director

Cc: Hon. Cecil Underwood
James Teets
Joseph Markus
Hon. Robert Kiss
Hon. Earl Ray Tomblin



Glen B. Gainer III
State Auditor

R. Ross Guyer
Chief of Staff

Paul S. Mollohan
Chief Clerk

State of West Virginia

Office of the State Auditor
Building 1, Room W-100
Charleston, West Virginia 25305

Telephone: (304) 558-2251
FAX: (304) 558-5200
Internet: <http://www.wvauditor.com>

December 9, 1997

John A. Rogers
Executive Director
Public Defender Services
Building 3, Room 330
Charleston, WV 25305

Dear Jack:

I have received your December 4, 1997 letter, with comments concerning the transaction and penalty fees provided in Senate Bill 563 passed during the 1997 Legislative Session.

A review of the transactions received from Public Defender Services for Fiscal Year 1997 showed a total of 6,258 documents received by this office. Based on the current anticipated rate of \$1.0032 per transaction, the annual cost to your agency would approximate \$6,278. To allow for budget adjustments during Fiscal Year 1998, the rate for Fiscal 1998 has been set at one-half the normal rate. The estimated billing for your agency for Fiscal 1998, January to June, would approximate \$1,570.

I estimate that for Fund 0226, Public Defender Services, 90% of the transactions are on Activity 127, Appointed Counsel Fees and Public Defender Corporations. Since these transactions are related directly to that activity, these fees could be charged to that appropriation. On an annual basis, the percentage cost to Activity 127 would be less than one-tenth of one percent.

As you stated, West Virginia Code 12-3-10c(a) does provide the funds to be used for the Purchasing Card Program. The same section also states that the proceeds are to be used to "...maintain and develop the fiscal operations and accounting systems of the state ...". The fee will provide funds to apply to the acquisition and implementation of a new statewide payroll system.

John A. Rogers
December 9, 1997
Page Two

I trust the above response answers your concerns. Our goal is to hold the costs to the minimum. If I can be of further assistance to you in this regard, please feel free to contact me at 558-2251.

Sincerely,



Paul S. Mollohan
Chief Clerk

PSM/lq



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Motor Vehicles

Cecil H. Underwood
Governor

1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317-0010

Richard W. Jemiola
Secretary

Joe E. Miller
Commissioner

December 10, 1997

Paul Mollohan, Chief Clerk
State Auditors Office
Building 1, Room W-100
Capitol Complex
Charleston, WV 25305

Dear Mr. Mollohan:

The Division of Motor Vehicles would like to take this opportunity to comment on the proposed rules for credit card transaction fees. Section 155-4-4, Penalty Fee Structure, states: "The Auditor may assess a penalty fee for transactions received for payment when those transactions are authorized to be paid by the state purchasing card and the spending unit failed to utilize the state purchasing card."

The Division has been decentralizing its operations in order to provide increased service to the citizens of West Virginia. Regional offices have been opened in nine locations and forty-two state police sites that issue driver's licenses can now accept money for payment of driver's license renewals. Hours of operation have been extended in the evening and weekend hours are now provided in the Kanawha Mall and the South Charleston State Police testing site.

Although the state police sites are not open daily, many of the sites are located in small rural areas.

The Division anticipates that at some time one of these decentralized locations will need to purchase an item after work hours or purchase an item at a location where credit cards are not accepted.

On weekends and after work hours, staff resources are limited. The availability of staff to shop for an item is not feasible.


304-558-3900 • TDD 1-800-742-6991 • 1-800-642-9066
An Equal Opportunity/Affirmative Action Employer

Paul Mollohan
Page Two
December 10, 1997

The Division would like to recommend that a provision be placed in the procedures that will allow an agency to justify an expenditure that was made without a credit card and eliminate having to pay the penalty fee.

Your assistance in this matter is greatly appreciated. If you have any questions or need additional information, please contact my office at (304) 558-2723.

Sincerely,


Joe E. Miller
Commissioner

JEM:RMJ/alc



State of West Virginia
OFFICE OF THE STATE AUDITOR
CHARLESTON 25305

GLEN B. GAINER, III
STATE AUDITOR

PAUL S. MOLLOHAN
CHIEF CLERK

December 16, 1997

Joe E. Miller
Commissioner
Division of Motor Vehicles
State Capitol
Charleston, WV 25305

Dear Commissioner Miller:

I have received your letter of December 10, 1997 concerning the implementation of the transaction fee and the penalty fee and the effect on your agency.

Your comments on how your agency is decentralized and the fact that all purchases may not be on the purchasing card because of remoteness of location or emergencies will certainly be considered in any assessment. There are no plans to assess penalty fees when there is no other way to make small purchases other than the current means that are used.

As stated in the cover letter, the Auditor does not plan to implement the penalty fee until after January 1, 2000, at the earliest. When implemented, all agencies will have an opportunity to participate in the implementation plan.

I hope this response answers your questions and concerns. If you need any further information, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Paul S. Mollohan".

Paul S. Mollohan
Chief Clerk



Glen B. Gainer III
State Auditor

R. Ross Guyer
Chief of Staff

Paul S. Mollohan
Chief Clerk

State of West Virginia

Office of the State Auditor
Building 1, Room W-100
Charleston, West Virginia 25305

Telephone: (304) 558-2251
FAX: (304) 558-5200
Internet: <http://www.wvauditor.com>

January 6, 1998

Charles W. Manning, Chancellor
State College Systems of West Virginia
1018 Kanawha Boulevard, East
Suite 700
Charleston, WV 25301-2827

Dear Chancellor Manning:

I received your comments and others from Higher Education concerning the transaction and penalty fee, as authorized by Senate Bill 563, passed during the 1997 Legislative Session. In order to focus on the comments from Higher Education, I have summarized the comments from your office and the following institutions:

- Marshall University
- Shepherd College
- West Virginia Northern Community College
- West Virginia State College
- Fairmont State College

1. Costs to Higher Education

Although the fee does represent an increase in operating expenses to Higher Education, the expense incurred would represent .04%, four ten-thousands of one percent, of the annual budget. However, part of the annual expense is reimbursed through Federal direct cost allocations.

2. Budget Oversight of Auditor and Treasurer

The Auditor and Treasurer are subject to the same budgetary process as any other State Agency. Any increase in spending must be justified and approved by the Governor and Legislature.

3. Implementation of Fee at Mid-Year

The transaction fee for the remainder of Fiscal Year 1998 will be \$0.5016, which is one-half the allowable rate of \$1.0032 for Fiscal Year 1999. The rate was reduced for Fiscal Year 1998 to allow for budget adjustments by the agencies.

4. Increases in the Transaction Rate

The rate may only be changed based upon actual costs incurred for hardware and software and may not be arbitrarily increased. As depreciation and interest expenses decline from year to year, the rate will decline.

5. Implementation of Penalty Fee

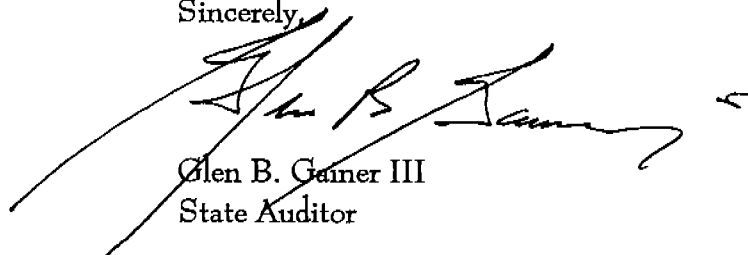
The penalty fee for not using the Purchasing Card for eligible purchases has been changed to January 1, 2000, or thereafter. Exceptions to the penalty will be made for emergency purchases, non-acceptance of the card, other circumstances beyond the control of the agency, or as determined by the Auditor.

6. Use of the Funds

The funds are to be used for the acquisition of hardware and software. The proceeds will be used toward the purchase and implementation of a statewide payroll system. All agencies will realize a certain amount of cost savings throughout the payroll application with the elimination of paper and consolidation of payroll reporting.

I want to thank you for your comments on this matter. If you need any further information, please let me know.

Sincerely,



Glen B. Gainer III
State Auditor

GBGIII/lq



Glen B. Gainer III
State Auditor

R. Ross Guyer
Chief of Staff

Paul S. Mollohan
Chief Clerk

State of West Virginia

Office of the State Auditor
Building 1, Room W-100
Charleston, West Virginia 25305

Telephone: (304) 558-2251
FAX: (304) 558-5200
Internet: <http://www.wvauditor.com>

January 6, 1998

Clifford M. Trump, Chancellor
State College System of West Virginia
1018 Kanawha Boulevard East
Charleston, WV 25301-2827

Dear Chancellor Trump:

I received your comments and others from Higher Education concerning the transaction and penalty fee, as authorized by Senate Bill 563, passed during the 1997 Legislative Session. In order to focus on the comments from Higher Education, I have summarized the comments from your office and the following institutions:

- Marshall University
- Shepherd College
- West Virginia Northern Community College
- West Virginia State College
- Fairmont State College

1. Costs to Higher Education

Although the fee does represent an increase in operating expenses to Higher Education, the expense incurred would represent .04%, four ten-thousands of one percent, of the annual budget. However, part of the annual expense is reimbursed through Federal direct cost allocations.

2. Budget Oversight of Auditor and Treasurer

The Auditor and Treasurer are subject to the same budgetary process as any other State Agency. Any increase in spending must be justified and approved by the Governor and Legislature.

3. Implementation of Fee at Mid-Year

The transaction fee for the remainder of Fiscal Year 1998 will be \$0.5016, which is one-half the allowable rate of \$1.0032 for Fiscal Year 1999. The rate was reduced for Fiscal Year 1998 to allow for budget adjustments by the agencies.

4. Increases in the Transaction Rate

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5. Implementation of Penalty Fee

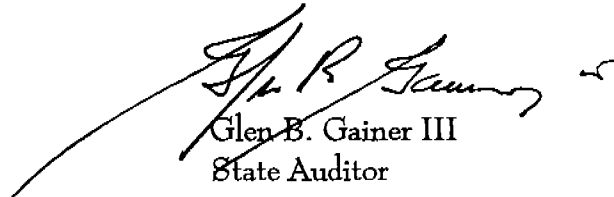
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6. Use of the Funds

The funds are to be used for the acquisition of hardware and software. The proceeds will be used toward the purchase and implementation of a statewide payroll system. All agencies will realize a certain amount of cost savings throughout the payroll application with the elimination of paper and consolidation of payroll reporting.

I want to thank you for your comments on this matter. If you need any further information, please let me know.

Sincerely,



Glen B. Gainer III
State Auditor

GBGIII/lq

State College and University Systems of West Virginia

Central Office

Clifford M. Trump, Chancellor
State College System of West Virginia

Charles W. Manning, Chancellor
University System of West Virginia

December 22, 1997

Mr. Paul Mollohan, Chief Clerk
State Auditor's Office
State Capitol Complex
Building 1, Room W-100
Charleston, WV 25305

Dear Mr. Mollohan:

We are responding to your request for comments on the proposed rules for transaction fees, specifically, Series 4, "Transaction Fee and Rate Structure". The proposed rule contains two major assessment sections, one setting a transaction fee for every transaction received electronically or otherwise by the Auditor from spending units of state government, and the other setting a penalty fee for non-use of the state purchasing card when the payment is eligible for use of the card.

First, we'd like to address the setting of a transaction fee for every transaction received electronically or otherwise. Input has been received from higher education institutions describing the impact of an assessment of this nature. Some of the concerns are as follows:

- The assessment of chargebacks of this sort is a way for one budget unit (Auditor's Office and Treasurer's Office) to solve budget problems at the expense of other budget units (Higher Education and other State agencies).
- Higher Education and other State agencies must seek increases through the Legislative process while chargebacks allow the receiving agency to increase resources without that same process.
- An internal shift of costs (i.e. the chargeback approach), unfairly benefits the receiving agency, i.e., the receiving agency does not have to justify spending increases.
- The timing of the chargeback is mid-year, which creates a problem for all divisions and departments, since spending plans have been determined through strategic planning—unfairly punishes those who happen to have an existing balance.
- Savings that have been generated through strategic planning required by Senate Bill 547 and through the use of the purchasing card would have to returned to the State through this chargeback system, rather than being retained by the institution.

Senate Bill 547 requires Higher Education to create efficiencies which can provide funds for reallocation to salaries and other critical needs.

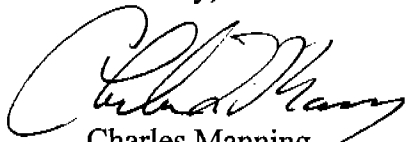
- Higher education transactions represent approximately 20% of the total transactions for the State. Higher education's share would be an estimated \$240,000. ✓
- The transaction fee is open-ended—it could be increased at will when the needs of the Auditor and Treasurer increase. ✓

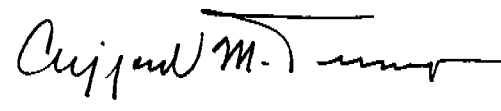
The second part of the rule sets a penalty fee for the non-use of the purchasing card for eligible transactions. Comments are as follows:

- The adoption of a purchasing card by the State has resulted in many efficiencies for higher education institutions. Marshall University, for example, has been able to eliminate two accounts payable positions as a result of the efficiency of using the card.
- The rule indicates that the effective date of the penalty fee will be during 1998, while the cover letter from the Auditor indicates that the fee will not be effective until January 1, 2000. Our suggestion is that the rule be changed to show an effective date of January 1, 2000 to be consistent with the practice. ✓
- A penalty fee is a good way to ensure that agencies use the card for all eligible transactions in order to reduce the cost of doing business for all parties. However, exceptions will have to be made due to unavoidable circumstances for some payments, which could be addressed by compliance within a range rather than an absolute dollar and transaction type cut-off. ✓

We appreciate the opportunity to comment on the rules and would be glad to discuss each of our concerns with you. We urge you to consider delaying the adoption of these rules until at least July 1, 1998 so that all affected parties can better understand the make-up of the needs for the charge, as well as to better understand which transactions will be assessed a fee. ✓

Sincerely,


Charles Manning


Clifford Trump

attachments

cc: Dr. John Thralls
Presidents, State College & University Systems
Thomas Sonnleitner



Vice President for Finance
 209 Old Main
 400 Hal Greer Boulevard
 Huntington, West Virginia 25755-4000
 304/696-2204 FAX 304/696-4354

Post-It™ brand fax transmittal memo 7671		# of pages >
To <i>PAUL MOLLAHAN</i>	From <i>H. KARLET</i>	
Co.	Co.	
Dept.	Phone # <i>696-2204</i>	
Fax # <i>558-3949</i>	Fax #	

MEMORANDUM

TO: Mr. Tom Sonnleitner

FROM: Herbert J. Karlet *H. Karlet*

DATE: December 16, 1997

SUBJECT: Auditor's Transaction Fee (New Chargeback Proposal-Legislative Rule 155)

The beginning of a chargeback system of any kind, when previously the services were provided at no charge, is a way for one budget unit to solve its budget problems at the expense of another budget unit. If adopted, the transaction fee will cost Marshall University an estimated \$40,000 annually. This is not a substantial percentage of our budget, but when considering our current five year budget plans and our streamlining effort, any increased costs are significant. To put it in a different perspective, this is the equivalent of two full time positions being deleted from Marshall's budget and transferred to the Auditor's and Treasurer's Office. Also there is great fear that the one dollar fee per transaction could be increased at any time. We are a captive audience and cannot take our business somewhere else if the price goes up.

I do support additional funding for the Auditor's Office to automate their systems. As they become more efficient and productive, we realize a direct benefit. In recent years their efficiencies have benefitted us. However, I do not want Marshall to pay for both our technology initiatives and the state's initiatives. State services should be budgeted and funded at the state level. Chargeback systems are cumbersome and uncontrollable. I would much prefer, trying to assist the Auditors's Office in obtaining targeted funding for technology initiatives which would help all of us.

HJK:md

xc: Dr. J. Wade Gilley
 Mr. Paul Mollahan



S H E P H E R D
C O L L E G E

Business Office • Shepherdstown, West Virginia 25443-3210 • 304|876|5324 • FAX: 304|876|5001

MEMORANDUM

TO: Paul Mollohan, Chief Clerk
FROM: Rita Rudolf, Chief Procurement Officer *Rita H Rudolf*
Date: December 16, 1997
RE: Proposed Rules for Transaction Fees

This subject was discussed last Spring at our Higher Education Purchasing meeting. We currently have about 50 cards distributed at Shepherd and I believe we will peak at about 70-75 cards. I see the following problems with the transaction fees.

We have people who will not be trusted to have the card or people who do not want the card. These people should be able to use the purchase order process without penalty.

A cardholder may purchase an item when they do not have the card with them. This should not be penalized.

A vendor may not accept the card. This could be a small company who does not want to assume the cost of the credit card operation. Some vendors are unique in higher education and an alternate source may not be available.

When we obtain three bids for a number of small items, we are often partially invoiced by the company. If the invoices are \$500 (or \$1000 if the card limit increases in the future) or below, the Auditor's Office may think these should have been credit card purchases.

Some cost has to be incurred by the Auditor's Office to charge back for such transactions. We, in turn, will feel we need to charge back units who do not use the card. Not only is this time consuming and costly internally, but a penalty to those who do not want or cannot have a card.

I suggest that we be allowed a percentage of at least 25% off total transactions that fall into this category before we are penalized. The credit card should be for convenience and to save paperwork; however, I believe there are circumstances when it is not practical or feasible to use the card. We should not be 100% responsible for not using the card.

Thank you for your consideration.



S H E P H E R D
C O L L E G E

Office of the Vice President for Administration and Finance • Shepherdstown, West Virginia 25443-3210

304|876|5287 • FAX: 304|876|5002

INTEROFFICE MEMORANDUM

TO: Thomas Sonnleitner, Director of Finance and Facilities
FROM: Ed Magee, Asst. V.P. of Administration and Finance *EM*
SUBJECT: AUDITOR'S TRANSACTION FEE FOR CHARGEBACKS.
DATE: December 17, 1997

We object to the proposed assessment by the Auditor for several reasons. The fee shifts the Auditor's costs to the agencies. We would have to increase our budgets while the Auditor would increase its financial resources without a budget increase. The Auditor's budget reported to the legislature would understate the financial resources available to it. The agencies' budgets would overstate their true costs.

It has been our experience that an internal shift of costs unfairly benefits the receiving agency. The receiving agency does not have to justify spending increases. The paying agency must justify its normal increases as well as the transfer of its costs to the receiving agency. Not all agencies have the opportunity to charge other agencies to increase financial resources.

Our fiscal year 1998 strategic plan was finalized in November, 1996. We did not receive notification from the Auditor of the fee increase at that time. It is unfair to impose the fee without giving the agencies a chance to plan for it.

cc: C. Thomas Baxter, V.P. Admin. & Finance



**West Virginia
Northern
COMMUNITY COLLEGE**
"For All Who Wish to Learn"

College
Administrative Offices
1704 Market Street
Wheeling, WV 26003
304-233-5900

December 17, 1997

TO: Thomas Sonnleitner

FR: Becky Johnen, Interim Vice President, Financial and Administrative Services

Regional Campuses

Weirton

150 Park Avenue
Weirton, WV 26062
304/723-2210

Wheeling

1704 Market Street
Wheeling, WV 26003
304/233-5900

New Martinsville

141 Main Street
New Martinsville, WV 26155
304/455-4684

RE: Proposed Rule - Transaction Fee

After reviewing the proposed rules for transaction fees, West Virginia Northern Community College has the following concerns:

1. Several of the vendors with whom we commonly work do not accept the VISA card.
 - a. Is there an expectation that we no longer work with these vendors?
 - b. Will exceptions be granted to continue to work with these vendors so that the institution will not be assessed a penalty fee?

2. Has any consideration been given about dealing with vendors who want to begin charging the institution a fee for using the VISA card? If the vendor must be used and if we do have to pay an additional fee, this is an expense that we must then be prepared to cover.

3. Our current average transaction rate is approximately 50 per day. Based on 20 working days a month, if we maintained the same rate, we would assume an additional cost of \$12,000 per year. It is hoped that through the use of the purchasing card, the number of transactions would decrease; however, this additional cost will need to be taken into account during the budgeting process.

Do not hesitate, Thomas, to contact me at 304-233-5900, extension 4224, if you should have any questions or require any further information.

Thank you.


cc: Linda S. Dunn, President
Paul S. Mollohan, Chief Clerk
Peggy Carmichael, Accounting Clerk III

WEST VIRGINIA STATE COLLEGE

Institute, West Virginia 25112-1000

Office of Fiscal Affairs
Phone 766-3011

M-E-M-O-R-A-N-D-U-M

TO: Tom Sonnleitner
FROM: Lawrence Smith 
DATE: December 17, 1997
SUBJECT: **Auditor's Transaction Fee for Chargebacks**

In response to your memorandum of December 15, 1997, the Auditor and Treasurer assessment of a \$1.00 fee per transaction would have an adverse impact at West Virginia State College.

According to our calculations, the College transmits 15,000 "T" transactions and 5,000 "E" transactions, for a total of 20,000 transactions annually. In addition transactions such as payroll, deposits, etc. would make that number climb to possibly 25,000 transactions per year. In my opinion \$25,000.00 is an excessive amount for the utilization of the FIMS system.

Although I realize the Purchasing Card will help lower the amount of transactions and the workload on the purchasing and accounts payable personnel, the much-needed time recognized will be utilized to accomplish other required tasks, such as inventory.

I appreciate the opportunity to comment on the proposed rule. Should you require additional information, please do not hesitate to contact me at 766-3011.

cc: Dr. Hazo W. Carter Jr.
Dr. Cassandra Whyte
✓ Mr. Paul Mollohan
Mrs. Janis Bennet
✓ Mrs. Carmen Parrish

M-E-M-O-R-A-N-D-U-M

TO: Tom Sonnleitner
FROM: Lawrence Smith
DATE: December 17, 1997
SUBJECT: **Auditor's Transaction Fee for Chargebacks**

In response to your memorandum of December 15, 1997, the Auditor and Treasurer assessment of a \$1.00 fee per transaction would have an adverse impact at West Virginia State College.

According to our calculations, the College transmits 15,000 "I" transactions and 5,000 "E" transactions, for a total of 20,000 transactions annually. In addition, transactions such as payroll, deposits, etc., would make that number climb to possibly 25,000 transactions per year. In my opinion, \$25,000 is an excessive amount for the utilization of the FIMS system.

Although I realize the Purchasing Card will help lower the amount of transactions and the workload on the purchasing and accounts payable personnel, the much-needed time recognized will be utilized to accomplish other required tasks, such as inventory.

I appreciate the opportunity to comment on the proposed rule. Should you require additional information, please do not hesitate to contact me at 766-3011.

(Please note I am faxing this from home. Another copy on letterhead will be faxed tomorrow morning.)



FAIRMONT
STATE COLLEGE

Office of the Vice President
for Administration and Finance

December 18, 1997

MEMORANDUM

TO: Thomas G. Sonnleitner
Director of Finance and Facilities
State College and University Systems of WV

FROM: Frederick W. Schaupp *FWS.*
V. P. for Administration and Finance

SUBJECT: Auditor's Transaction Fee for Chargebacks

Although we have already discussed my concerns about chargebacks, allow me to reiterate.

1. The road to Hell is paved with good intentions. The request on the part of the Auditor and Treasurer for chargebacks continues what has already been initiated by other state agencies (i.e., Purchasing and CSNI to mention two) and results in us feeding on each other. This food chain mentality results in state agencies' budgets becoming distorted. I am opposed to the proliferation of chargebacks between and among state agencies.
2. As with any charge or expense assessed against another agency, the cost is ultimately transferred to the final user, i.e., students. In a way, it is form of taxation that can be regressive in nature.
3. The use of the chargebacks as presented has a punitive aspect to it. There is no question that the Auditor and Treasurer need to fund their technology initiatives. We are, however, all part of the same state system. Each of us has technology needs. No one questions the need for the Auditor and the Treasurer to operate at a level of technology commensurate with their responsibilities; however, to present a fee couched in a punitive mode is counter-productive. I would hate to think that the fee turns into the fiasco experienced by Purchasing in financing their technology needs.

Page 2
Thomas G. Sonnleitner

December 18, 1997

The benefits derived through the use of the P-Card and other initiatives of both the Auditor and Treasurer's Office are commendable. I strongly applaud them for bringing about a level of efficiency to their offices that has, at times, been lacking in the past. However, to finance these initiatives through a transaction fee will probably be counter-productive.

Should you have any questions or wish to discuss these positions in greater detail, please feel free to contact me. Thank you.

FWS:jls
CC: Rick Porto
TS-AUD



JOHN B. RADER
Director

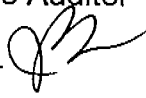
Equal Opportunity Employer

CECIL H. UNDERWOOD
Governor

Administration (304) 558-3315 FAX (304) 558-2768	Law Enforcement (304) 558-2783 FAX (304) 558-1170	Parks and Recreation (304) 558-2764 FAX (304) 558-0077	Wildlife Resources (304) 558-2771 FAX (304) 558-3147	Conservation Education and Litter Control (304) 558-3370 FAX (304) 558-2768	Public Information (304) 558-3380 FAX (304) 558-2768	Real Estate Management (304) 558-3225 FAX (304) 558-3680	Wonderful West Virginia Magazine (304) 558-9152 FAX (304) 558-2768
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MEMORANDUM

TO: Glen B. Gainer, III, State Auditor

FROM: John B. Rader, Director 

DATE: December 22, 1997

RE: Proposed Rules for Transaction Fees

Generally, this agency is ambivalent to your proposed rules for purchasing card transaction fees. However, we did receive comments of concern from Cordie O. Hudkins, Chief of our Parks and Recreation Section. Mr. Hudkins' concerns are that penalties will be assessed for simple oversight and not for consistent abuse. ✓

It is hoped that your office will consider that an employee could forget his/her card and need to make an immediate purchase. We expect this to happen though not purposely. Therefore, we are requesting that you take this type of extenuating circumstance into consideration when imposing the proposed fee structure.

JBR/hpb

cc: Section Chiefs
Executive Staff





Glen B. Gainer III
State Auditor

R. Ross Guyer
Chief of Staff

Paul S. Mollohan
Chief Clerk

State of West Virginia

Office of the State Auditor
Building 1, Room W-100
Charleston, West Virginia 25305

Telephone: (304) 558-2251
FAX: (304) 558-5200
Internet: <http://www.wvauditor.com>

January 6, 1998

John B. Rader, Director
Department of Natural Resources
State Capitol Complex
Building 3, Capitol Complex
Charleston, WV 25305-0660

Dear Mr. Rader:

I have received your letter concerning the comments for the transaction and penalty fee, as authorized by Senate Bill 563, passed during the 1997 Legislative Session.

The penalty fee for not using the Purchasing Card for eligible purchases has been changed to January 1, 2000, or thereafter. Exceptions to the penalty will be made for emergency purchases, non-acceptance of the card, other circumstances beyond the control of the Agency, or as determined by the Auditor.

Thanks for your time and comments. If I can be of further assistance to you concerning these rules, please feel free to give me a call at 558-2251.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen B. Gainer III".

Glen B. Gainer III
State Auditor

GBGIII/lq




The Department of Military Affairs and Public Safety

WALTER SMITTLE III
State Fire Marshal
L. DARL CROSS
Chief Deputy Fire Marshal

CECIL H. UNDERWOOD, GOVERNOR
STATE FIRE MARSHAL'S OFFICE

1207 Quarrier Street, 2nd Floor
Charleston, West Virginia 25301

Phone (304) 558-2191
FAX (304) 558-2537

TO: Glen B. Gainer III, State Auditor
FROM: Walter Smittle III, State Fire Marshal 
SUBJECT: Proposed Rule for Transaction Fees
DATE: December 19, 1997

The proposed rule on transaction fees I believe, in general, is an unfair burden on state agencies because the process is mandatory. The billing of fees is a "back door" approach for increased funding for your agency and the State Treasurer's Office.

This process creates a burden on this agency which is not funded for this increased cost mandated by law. I simply review the process similar to unfunded federal mandates. Nevertheless, this agency is caught in the process without increased funding to compensate your agency.

I appreciate the opportunity to comment.

WSIII/nlo

cc: Mr. Otis G. Cox, Jr., Secretary, MAPS
cc: WV Legislative Rule-Making Review Committee

Ref: 121997-2



Glen B. Gainer III
State Auditor

R. Ross Guyer
Chief of Staff

Paul S. Mollohan
Chief Clerk

State of West Virginia

Office of the State Auditor
Building 1, Room W-100
Charleston, West Virginia 25305

Telephone: (304) 558-2251
FAX: (304) 558-5200
Internet: <http://www.wvauditor.com>

January 6, 1998

Walter Smittle III
State Fire Marshall
1207 Quarrier Street
Charleston, WV 25301

Dear Mr. Smittle:

I have received your letter concerning the comments for the transaction and penalty fee, as authorized by Senate Bill 563, passed during the 1997 Legislative Session.

To allow for mid-year implementation of the fee, the transaction fee for the remainder of Fiscal Year 1998 will be \$0.5016, which is one-half the allowable rate of \$1.0032 for Fiscal Year 1999. The rate was reduced for Fiscal Year 1998 to allow for budget adjustments by the Agencies.

The funds are to be used for the acquisition of hardware and software. The proceeds will be used toward the purchase and implementation of a statewide payroll system. All agencies will realize a certain amount of cost savings throughout the payroll application with the elimination of paper and consolidation of payroll reporting.

Thanks for your time and comments. If I can be of further assistance to you concerning these rules, please feel free to give me a call at 558-2251.

Sincerely,



Glen B. Gainer III
State Auditor

GBGIII/lq

STATE OF WEST VIRGINIA




REGIONAL JAIL and CORRECTIONAL FACILITY AUTHORITY

CAPITOL COMPLEX
307 JEFFERSON STREET
P. O. BOX 50285
CHARLESTON, WV 25305-0285
(304) 558-2110
FAX: (304) 558-2115

CECIL H. UNDERWOOD
Governor

STEVEN D. CANTERBURY
Executive Director

MEMORANDUM

Date: December 22, 1997
To: Glen B. Gainer III, State Auditor
From: Tony W. Davis, Accountant III 
Subject: Proposed Rules For Transaction Fees

In response to the proposed transaction fees, we feel that the proposal would be fair if certain adjustments and/or concessions could be made.

Our proposed concessions/adjustments are:

A fee shouldn't be imposed if we have to use a sole source vendor that doesn't accept VISA. ✓

Either statewide contract vendors should be required to accept VISA, or there should be no penalty fee to use them. ✓

The spending limit per transaction should be raised from Five Hundred Dollars (\$500.00) to at least One Thousand Dollars (\$1,000.00) so as to eliminate even more paperwork. ✓

All state agencies and sheltered workshops providing service to other state agencies should be required to accept VISA. ✓

Private individuals that provide labor, for example, snow removal and lawn maintenance should be exempt.

Emergency purchase orders to vendors that do not accept VISA should be exempt. An emergency in our case would be if something unforeseen should occur that requires immediate attention (repairs).

In order to insure that our employees have a checking account, we would have to make that a requirement for employment. How can we force our current employees to get a checking account without violating their civil rights?

bgp



State of West Virginia
OFFICE OF THE STATE AUDITOR
CHARLESTON 25305

GLEN B. GAINER, III
STATE AUDITOR

January 5, 1998

PAUL S. MOLLOHAN
CHIEF CLERK

Tony Davis
Regional Jail Authority
307 Jefferson Street
P.O. Box 50285
Charleston, WV 25305-0285

Dear Tony:

I have received your letter concerning the comments for the transaction and penalty fee as authorized by Senate Bill 563 passed during the 1997 Legislative session.

The penalty fee for not using the purchasing card for eligible purchases has been changed to January 1, 2000, or thereafter. Exceptions to the penalty will be made for emergency purchases, non-acceptance of the card, other circumstances beyond the control of the agency, or as determined by the Auditor.

The limit for the transaction amount is being increased to \$1,000 during the 1998 Legislative session by amendments to the rules.

Penalty fees for 1099 activities, such as snow removal and lawn maintenance provided by private individuals, will not be assessed a penalty since the charges are not an eligible transaction on the purchasing card.

Thanks for your time and comments. If I can be of further assistance to you concerning these rules, feel free to call me at 558-2251.

Sincerely

A handwritten signature in cursive script that reads "Paul S. Mollohan".

Paul S. Mollohan

H. B. 4149

6717

155-4

1 Bill-Audi
2 (By Delegates Hunt, Linch, Compton, Jenkins,
3 Faircloth and Riggs)

4 [Introduced January 30, 1998; referred to the
5 Committee on Finance then the Judiciary.]
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10 A BILL to amend and reenact section five, article nine,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the auditor to promulgate a legislative
14 rule relating to a transaction fee and rate structure.

15 *Be it enacted by the Legislature of West Virginia:*

16 That section five, article nine, chapter sixty-four of
17 the code of West Virginia, one thousand nine hundred
18 thirty-one, as amended, be amended and reenacted, to read
19 as follows:

20 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND**
21 **BOARDS TO PROMULGATE LEGISLATIVE RULES.**

22 **§64-9-5. Auditor.**

23 (a) The legislative rule filed in the state register

4149

1 on the thirtieth day of August, one thousand nine hundred
2 ninety-six, under the authority of section ten, article
3 three, chapter twelve of this code, modified by the auditor
4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 fourth day of December, one thousand nine hundred
7 ninety-six, relating to the auditor (standards for
8 requisitions for payment issued by state officers on the
9 auditor, 155 CSR 1), is authorized.

10 (b) The legislative rule filed in the state register
11 on the sixth day of January, one thousand nine hundred
12 ninety-eight, authorized under the authority of section
13 ten-c, article three, chapter twelve, of this code,
14 modified by the auditor to meet the objections of the
15 legislative rule-making review committee and refiled in the
16 state register on the twenty-first day of January, one
17 thousand nine hundred ninety-eight, relating to the auditor
18 (transaction fee and rate structure, 155 CSR 4), is
19 authorized.

20

21 NOTE: The purpose of this bill is to authorize the
22 Auditor to promulgate a legislative rule relating to a
23 Transaction Fee and Rate Structure.

24
25 Strike-throughs indicate language that would be

1 stricken from the present law, and underscoring indicates
2 new language that would be added.

Senate Bill No. 274

1 (By Senator(s) Ross, Anderson, Bowman,
2 Macnaughtan, Boley and Buckalew)

3 [Introduced January 30, 1998; referred to the
4 Committee on Government Organization; then to
5 the Committee on Finance; and then to the
6 Committee on the Judiciary.]
7
8
9

10 A BILL to amend and reenact section five, article nine,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the auditor to promulgate a legislative
14 rule relating to a transaction fee and rate structure.

15 *Be it enacted by the Legislature of West Virginia:*

16 That section five, article nine, chapter sixty-four of
17 the code of West Virginia, one thousand nine hundred
18 thirty-one, as amended, be amended and reenacted, to read
19 as follows:

20 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND
21 BOARDS TO PROMULGATE LEGISLATIVE RULES.**

22 **§64-9-5. Auditor.**

23 (a) The legislative rule filed in the state register

1 on the thirtieth day of August, one thousand nine hundred
2 ninety-six, under the authority of section ten, article
3 three, chapter twelve of this code, modified by the auditor
4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 fourth day of December, one thousand nine hundred
7 ninety-six, relating to the auditor (standards for
8 requisitions for payment issued by state officers on the
9 auditor, 155 CSR 1), is authorized.

10 (b) The legislative rule filed in the state register
11 on the sixth day of January, one thousand nine hundred
12 ninety-eight, authorized under the authority of section
13 ten-c, article three, chapter twelve, of this code,
14 modified by the auditor to meet the objections of the
15 legislative rule-making review committee and refiled in the
16 state register on the twenty-first day of January, one
17 thousand nine hundred ninety-eight, relating to the auditor
18 (transaction fee and rate structure, 155 CSR 4), is
19 authorized.

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21 NOTE: The purpose of this bill is to authorize the
22 Auditor to promulgate a legislative rule relating to a
23 Transaction Fee and Rate Structure.

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25 Strike-throughs indicate language that would be

1 stricken from the present law, and underscoring indicates
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