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April 2014

ERIE COUNTY LEGISLATURE
REVIEW OF PURCHASES
FOR THE PERIOD
JANUARY 1, 2009 THROUGH DECEMBER 31, 2013

HON. STEFAN I. MYCHAJLIW
Erie County Comptroller
95 Franklin Street
Room 1100
Buffalo, NY 14202-3971

Hon. Stefan I. Mychajliw
Erie County Comptroller's Office
Division of Audit and Control

April 29, 2014

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

At the request of the Chairman of the Erie County Legislature, the Erie County Comptroller's Office (Audit) has completed a financial review of all purchases and expenses of the Erie County Legislature (Legislature) during the period January 1, 2009 through December 31, 2013.

Our objectives were to: (1) Review and analyze the purchases and interdepartmental billings of the Legislature; (2) Review the propriety of expense reimbursements; (3) Review the utilization of existing contracts for purchases; and (4) Determine if purchases were made in compliance with Erie County Purchasing Policies and Procedures.

We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on the objectives for our review.

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Background

The Erie County Legislature is the governing, lawmaking, and policymaking body of Erie County Government. At the beginning of our Review period, 2009, Erie County was represented by fifteen Legislators. A referendum was approved by the voters of Erie County in November 2010, reducing the number of Legislative Districts from fifteen to eleven, which took effect on January 1, 2012. Currently Erie County is divided into eleven Legislative Districts. A list of the current Legislators with their contact information is provided in Appendix I.

The Legislature is divided into two caucuses – the majority and the minority. The caucus division is based upon major political party lines. In each caucus there is a Legislator selected as the group's leader, the Majority and Minority Leader. Additionally the Legislature selects a Chairperson to oversee the Legislature. During the period under review, three different Legislators served as Chairperson for the Legislature.

The Legislature elects a Clerk for the Legislature who, among his other duties, is responsible for overseeing the Legislative offices, and reviewing purchase orders for the Legislature submitted by the Chiefs of Staff from both caucuses. Each Chief of Staff is an appointed individual with the responsibility of running the Legislative offices of their caucus. In addition to these positions, both the Majority and Minority Caucuses employ central staff who work in the Legislative Chambers at 92 Franklin Street. The current Minority also operates district offices, the Majority does not, however each Legislator is assigned an aid whose efforts are designated to their district.

At the close of the review period, December 2013, the Clerk of the Legislature, the Majority Chief of Staff, and two Senior Administrative Clerks for the Majority were authorized signators. The Clerk and the designated staff members with the ability to sign and approve all invoices to be paid physically sign off on payment and then enter the invoices into SAP, Erie County's accounting system. Once the payments are approved by one of the designated staff, they are sent to the Comptroller's Office Accounts Payable Division for processing. The Accounts Payable Division confirms invoices were approved for payment by an authorized individual, and issues the check to the vendor.

On February 18, 2014, Hon. John J. Mills, Chairman of the Legislature sent a letter to Comptroller Stefan I. Mychajliw formally requesting a review of the expenditures of the Legislature. In his letter, Chairman Mills stated "For the first time in decades a Republican Majority exists in the Legislature. We believe it is important to lead by example as a Legislative caucus and find cost cutting measures within our own body and eliminate wasteful spending from past leadership in the Legislature." In response to this letter, on February 18, 2014 the Comptroller's Audit Division commenced a five review of Legislature expenses.

Our review encompassed all expenditures by both caucuses of the Erie County Legislature over the five year period January1, 2009 through December 31, 2013.

Executive Summary of Findings

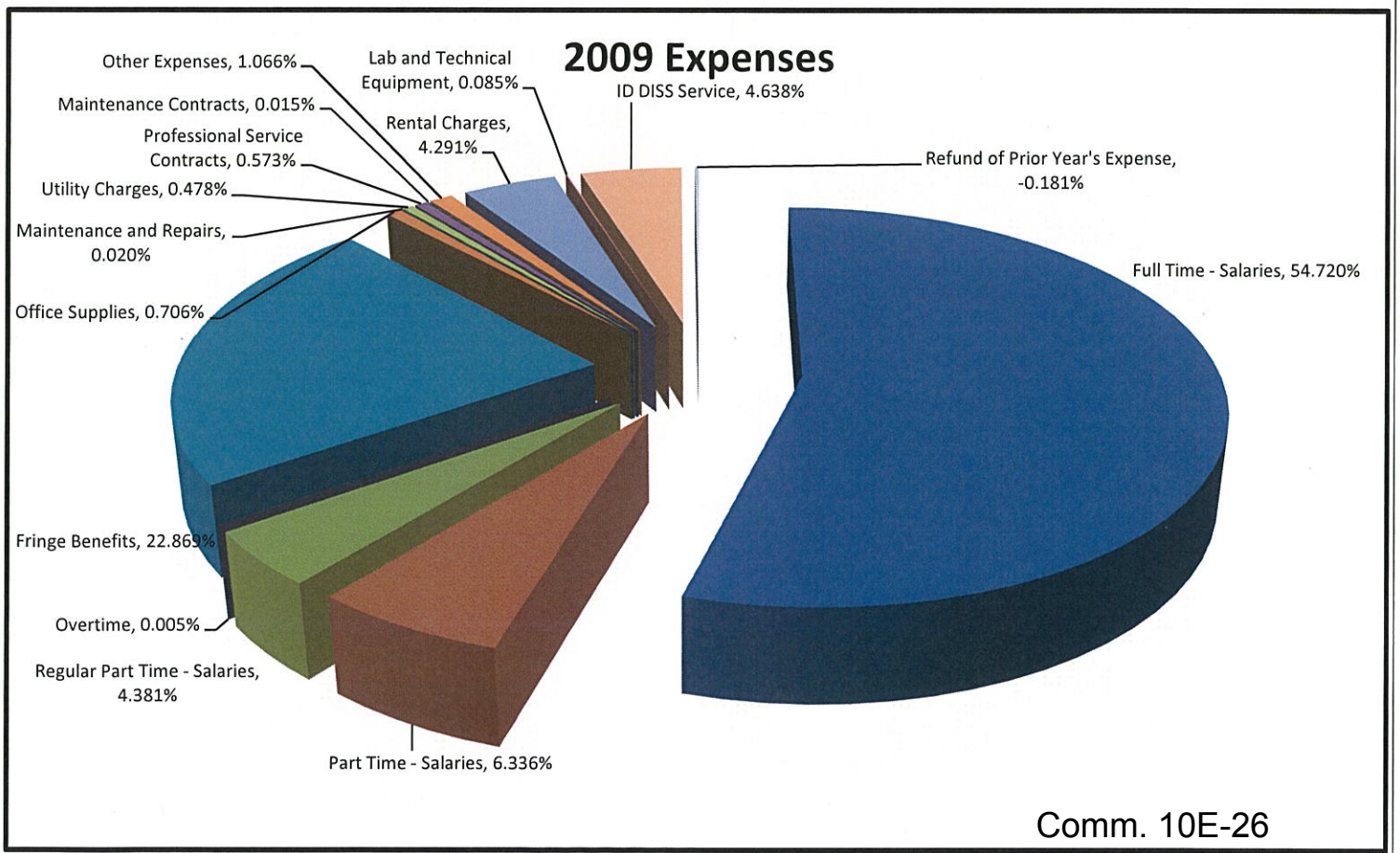
- A district office has a copy machine with a lease that expired in 2008. The lease has been automatically renewing since the termination date. The copy machine is not in working order.
- Internet access was paid for a district office for nine months during which time it was not used due to a fire.
- The Legislature's contracted with two photographers without putting the service out to bid or having a formal approved contract of services.
- An employee authorized his own reimbursement for expenses he incurred on behalf of the Legislature.
- Late fees were incurred due to late payment of invoices.
- Furniture cleaning expenses were incurred without a bid and consideration of other options, and sales tax was paid.
- Proper purchasing procedures were not followed in the acquisition of equipment and toner.
- Purchases were made without using County contracts.
- Expenses were incurred by the Legislature that were deemed questionable.

Analysis of Expenditures

The following is a budget to actual expense breakdown for the Erie County Legislature for the period January 1, 2009 through December 31, 2013.

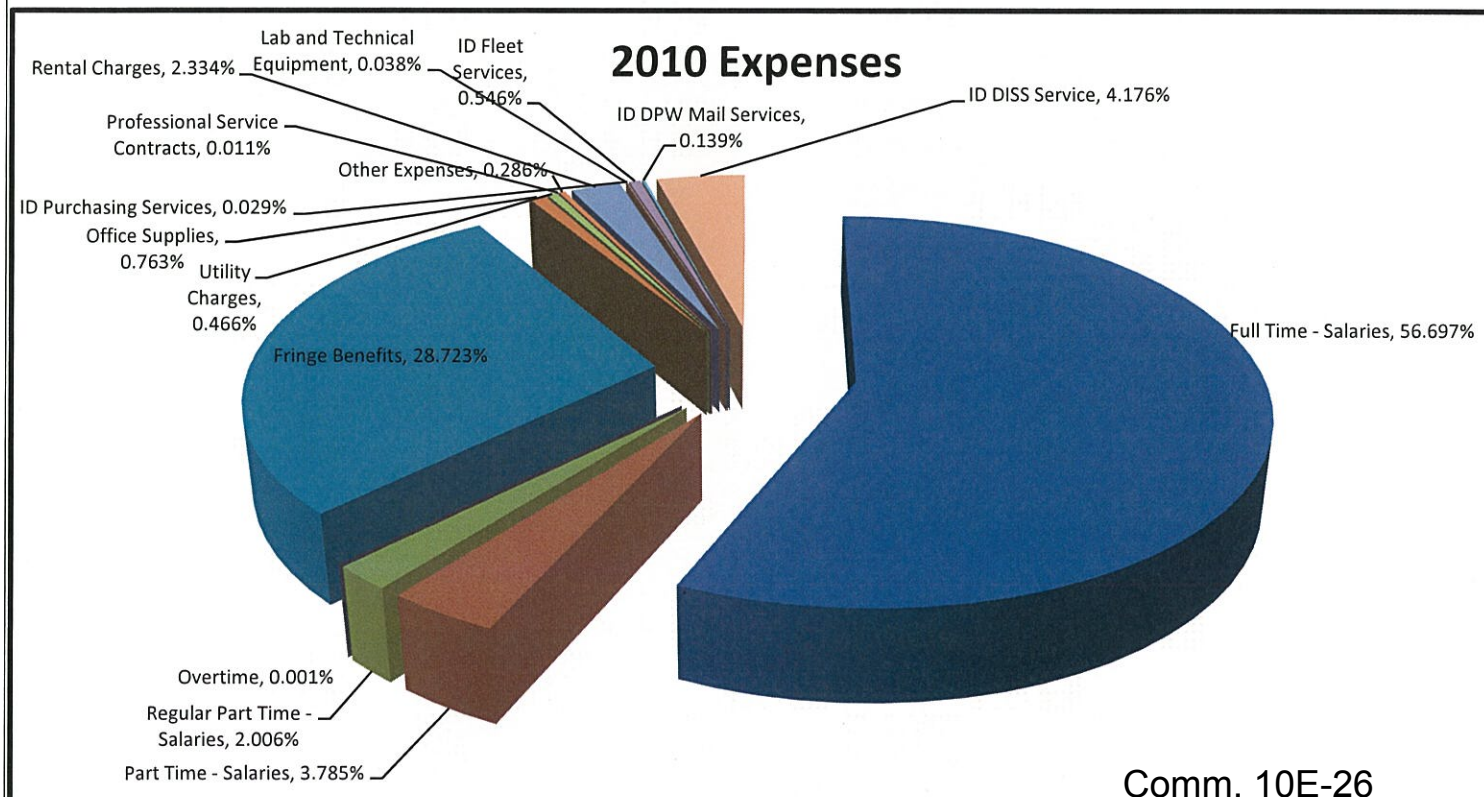
2009

Budget Item	2009 Budget	2009 Actual	Percentage of 2009 Budget Spent
Full Time - Salaries	$1,497,419.00	$ 1,507,643.01	100.68%
Part Time - Salaries	$ 191,139.00	$ 174,562.73	91.33%
Regular Part Time - Salaries	$ 170,212.00	$ 120,697.37	70.91%
Overtime	$ -	$ 148.97	
Fringe Benefits	$ 722,785.00	$ 630,090.13	87.18%
Office Supplies	$ 26,248.00	$ 19,465.54	74.16%
Maintenance and Repairs	$ 4,500.00	$ 548.90	12.20%
Training and Education	$ 10,000.00	$ -	0.00%
Utility Charges	$ 42,971.00	$ 13,162.20	30.63%
Professional Service Contracts	$ 10,779.00	$ 15,778.00	146.38%
Maintenance Contracts	$ 14,000.00	$ 408.38	2.92%
Other Expenses	$ 45,000.00	$ 29,380.63	65.29%
Rental Charges	$ 135,000.00	$ 118,218.00	87.57%
Lab and Technical Equipment	$ -	$ 2,339.00	
ID Purchasing Services	$ -	$ -	
ID Fleet Services	$ -	$ -	
ID DPW Mail Services	$ -	$ -	
ID DISS Service	$ 169,456.00	$ 127,776.73	75.40%
Refund of Prior Year's Expense	$ -	$ (4,999.22)	
Miscellaneous Receipts	$ -	$ -	
Total	$3,039,509.00	$ 2,755,220.37	90.65%



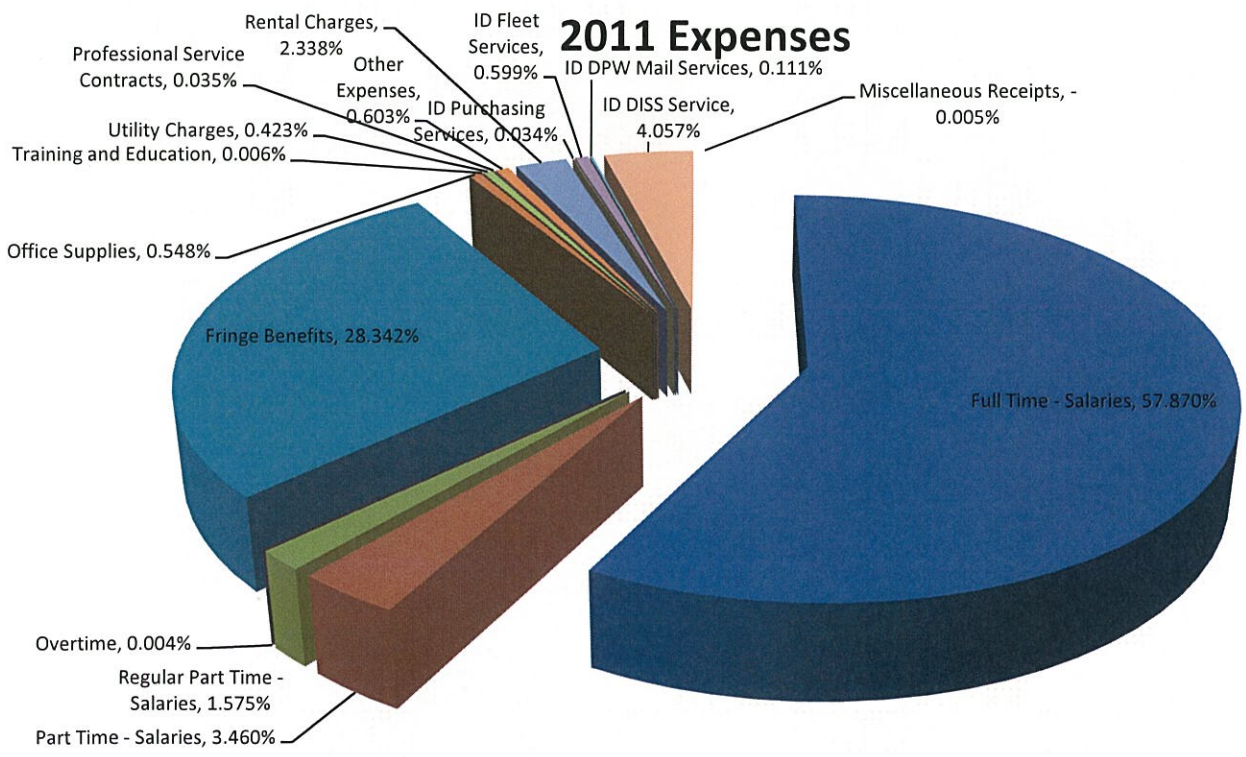
2010

Budget Item	2010 Budget	2010 Actual	Percentage of 2010 Budget Spent
Full Time - Salaries	$ 1,756,468.00	$1,730,931.53	98.55%
Part Time - Salaries	$ 109,342.00	$ 115,562.74	105.69%
Regular Part Time - Salaries	$ 52,644.00	$ 61,237.20	116.32%
Overtime	$ -	$ 42.25	
Fringe Benefits	$ 847,058.00	$ 876,906.56	103.52%
Office Supplies	$ 26,248.00	$ 23,289.13	88.73%
Maintenance and Repairs	$ 4,000.00	$ -	0.00%
Training and Education	$ 10,000.00	$ -	0.00%
Utility Charges	$ 35,000.00	$ 14,222.30	40.64%
Professional Service Contracts	$ 10,000.00	$ 321.25	3.21%
Maintenance Contracts	$ 14,000.00	$ -	0.00%
Other Expenses	$ 39,855.00	$ 8,743.53	21.94%
Rental Charges	$ 104,831.00	$ 71,248.00	67.96%
Lab and Technical Equipment	$ 145.00	$ 1,164.62	803.19%
ID Purchasing Services	$ 914.00	$ 883.52	96.67%
ID Fleet Services	$ 3,706.00	$ 16,654.00	449.38%
ID DPW Mail Services	$ 5,000.00	$ 4,241.33	84.83%
ID DISS Service	$ 104,534.00	$ 127,478.74	121.95%
Refund of Prior Year's Expense	$ -	$ -	
Miscellaneous Receipts	$ -	$ (1.00)	
Total	$ 3,123,745.00	$3,052,925.70	97.73%



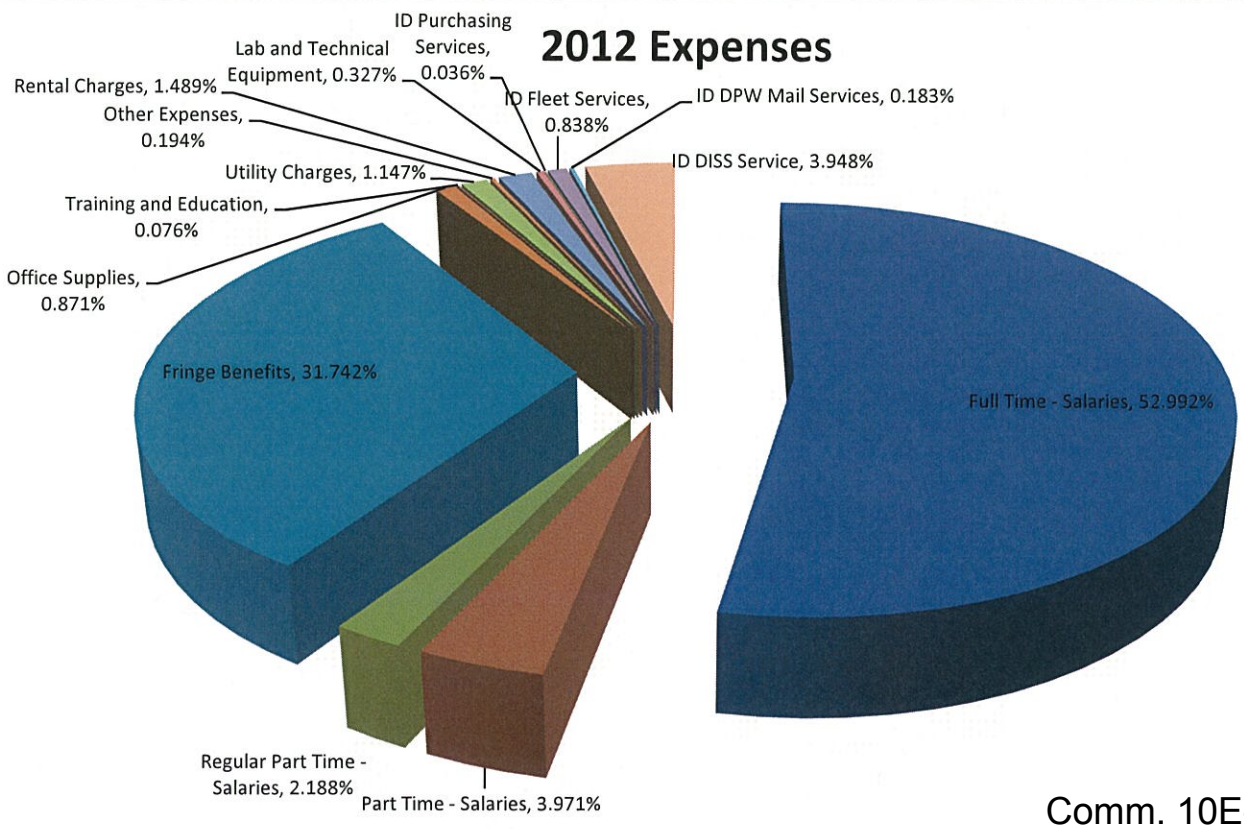
2011

Budget Item	2011 Budget	2011 Actual	Percentage of 2011 Budget Spent
Full Time - Salaries	$1,774,310.00	$ 1,771,727.22	99.85%
Part Time - Salaries	$ 109,342.00	$ 105,921.73	96.87%
Regular Part Time - Salaries	$ 53,429.00	$ 48,229.77	90.27%
Overtime	$ -	$ 129.10	0.00%
Fringe Benefits	$1,027,653.00	$ 867,727.21	84.44%
Office Supplies	$ 26,248.00	$ 16,774.92	63.91%
Maintenance and Repairs	$ 4,000.00	$ -	0.00%
Training and Education	$ 10,000.00	$ 185.00	1.85%
Utility Charges	$ 35,000.00	$ 12,938.89	36.97%
Professional Service Contracts	$ 10,000.00	$ 1,063.06	10.63%
Maintenance Contracts	$ 14,000.00	$ -	0.00%
Other Expenses	$ 39,855.00	$ 18,474.86	46.36%
Rental Charges	$ 104,831.00	$ 71,568.00	68.27%
Lab and Technical Equipment	$ 145.00	$ -	0.00%
ID Purchasing Services	$ 860.00	$ 1,055.99	122.79%
ID Fleet Services	$ 15,248.00	$ 18,343.80	120.30%
ID DPW Mail Services	$ 4,848.00	$ 3,395.87	70.05%
ID DISS Service	$ 104,862.00	$ 124,205.47	118.45%
Refund of Prior Year's Expense	$ -	$ -	
Miscellaneous Receipts		$ (162.00)	
Total	$3,334,631.00	$ 3,061,578.89	91.81%



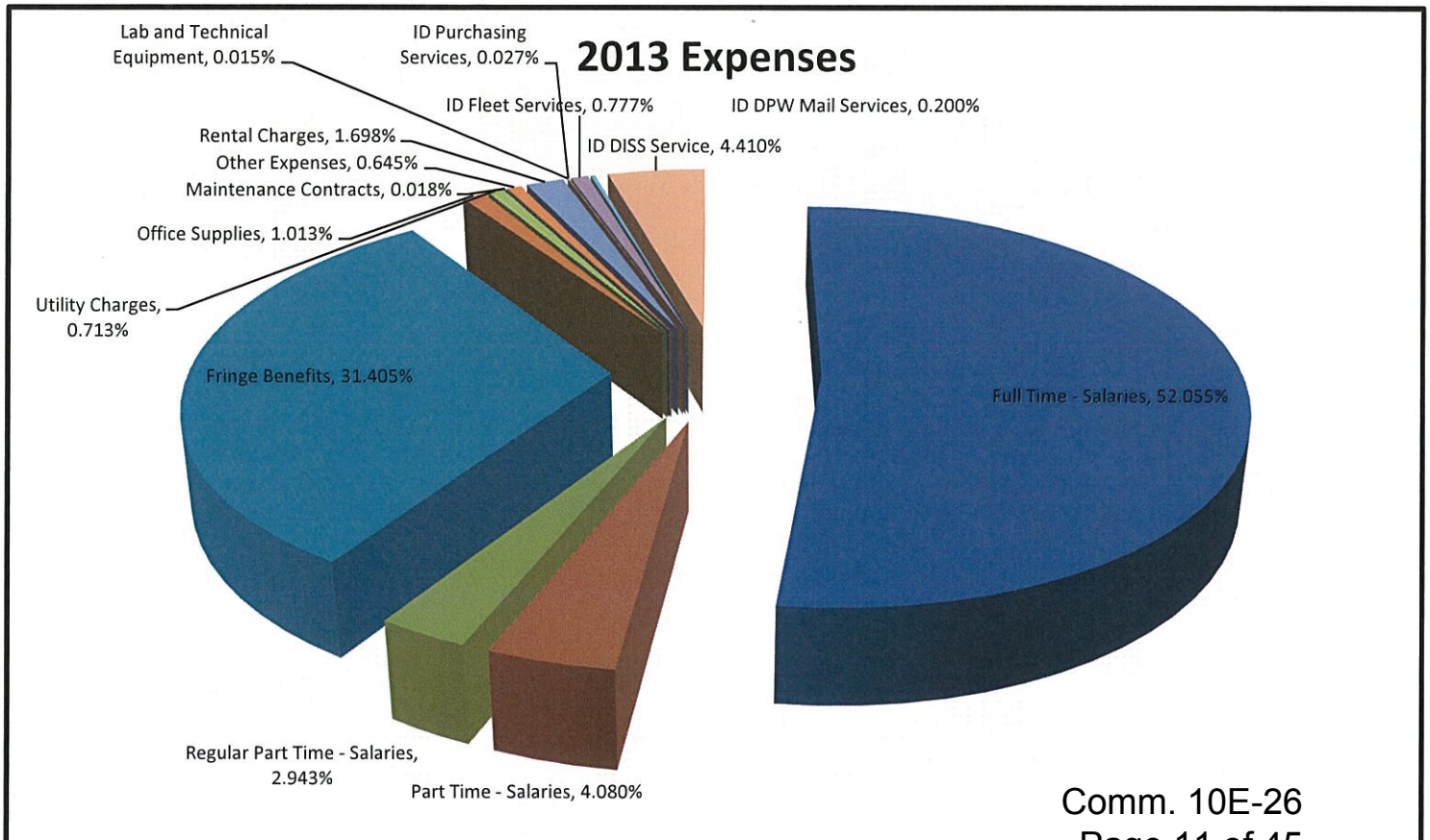
2012

Budget Item	2012 Budget	2012 Actual	Percentage of 2012 Budget Spent
Full Time - Salaries	$1,562,459.00	$ 1,556,377.80	99.61%
Part Time - Salaries	$ 106,171.00	$ 116,640.29	109.86%
Regular Part Time - Salaries	$ 43,687.00	$ 64,263.04	147.10%
Overtime	$ -	$ -	
Fringe Benefits	$ 900,879.00	$ 932,247.99	103.48%
Office Supplies	$ 26,248.00	$ 25,585.23	97.47%
Maintenance and Repairs	$ 4,000.00	$ -	0.00%
Training and Education	$ 10,000.00	$ 2,225.92	22.26%
Utility Charges	$ 35,000.00	$ 33,683.72	96.24%
Professional Service Contracts	$ 10,000.00	$ -	0.00%
Maintenance Contracts	$ 14,000.00	$ -	0.00%
Other Expenses	$ 5,855.00	$ 5,708.75	97.50%
Rental Charges	$ 94,400.00	$ 43,720.00	46.31%
Lab and Technical Equipment	$ 9,745.00	$ 9,600.00	98.51%
ID Purchasing Services	$ 1,027.00	$ 1,059.19	103.13%
ID Fleet Services	$ 14,315.00	$ 24,609.78	171.92%
ID DPW Mail Services	$ 4,133.00	$ 5,360.24	129.69%
ID DISS Service	$ 120,798.00	$ 115,939.77	95.98%
Refund of Prior Year's Expense	$ -	$ (32.34)	
Miscellaneous Receipts	$ -	$ -	
Total	$2,962,717.00	$ 2,936,989.38	99.13%



2013

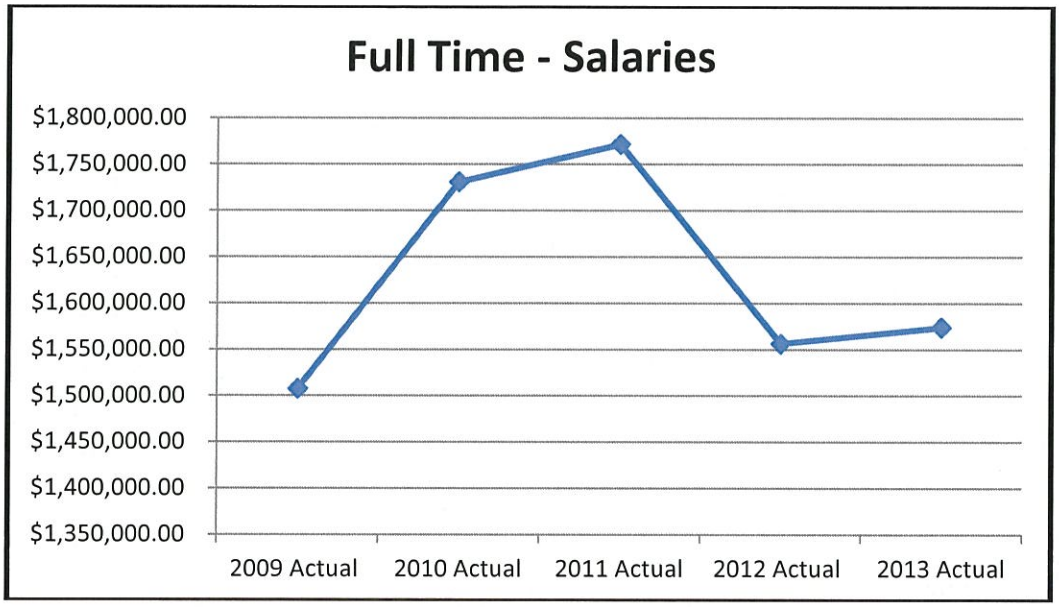
Budget Item	2013 Budget	2013 Actual	Percentage of 2013 Budget Spent
Full Time - Salaries	$1,565,427.00	$ 1,574,115.87	100.56%
Part Time - Salaries	$ 125,960.00	$ 123,365.41	97.94%
Regular Part Time - Salaries	$ 93,880.00	$ 88,993.15	94.79%
Overtime	$ -	$ -	
Fringe Benefits	$1,017,602.00	$ 949,673.84	93.32%
Office Supplies	$ 26,248.00	$ 30,634.45	116.71%
Maintenance and Repairs	$ 4,000.00	$ -	0.00%
Training and Education	$ 10,000.00	$ -	0.00%
Utility Charges	$ 35,000.00	$ 21,566.18	61.62%
Professional Service Contracts	$ 10,000.00	$ -	0.00%
Maintenance Contracts	$ 14,000.00	$ 555.00	3.96%
Other Expenses	$ 39,855.00	$ 19,500.00	48.93%
Rental Charges	$ 104,000.00	$ 51,360.00	49.38%
Lab and Technical Equipment	$ 145.00	$ 450.00	310.34%
ID Purchasing Services	$ 1,137.00	$ 822.43	72.33%
ID Fleet Services	$ 21,843.00	$ 23,509.10	107.63%
ID DPW Mail Services	$ 5,349.00	$ 6,036.43	112.85%
ID DISS Service	$ 132,589.00	$ 133,341.97	100.57%
Refund of Prior Year's Expense	$ -	$ -	
Miscellaneous Receipts	$ -	$ -	
Total	$3,207,035.00	$ 3,023,923.83	94.29%



Five-Year Trending – Salaries/Overtime/Fringe Benefits

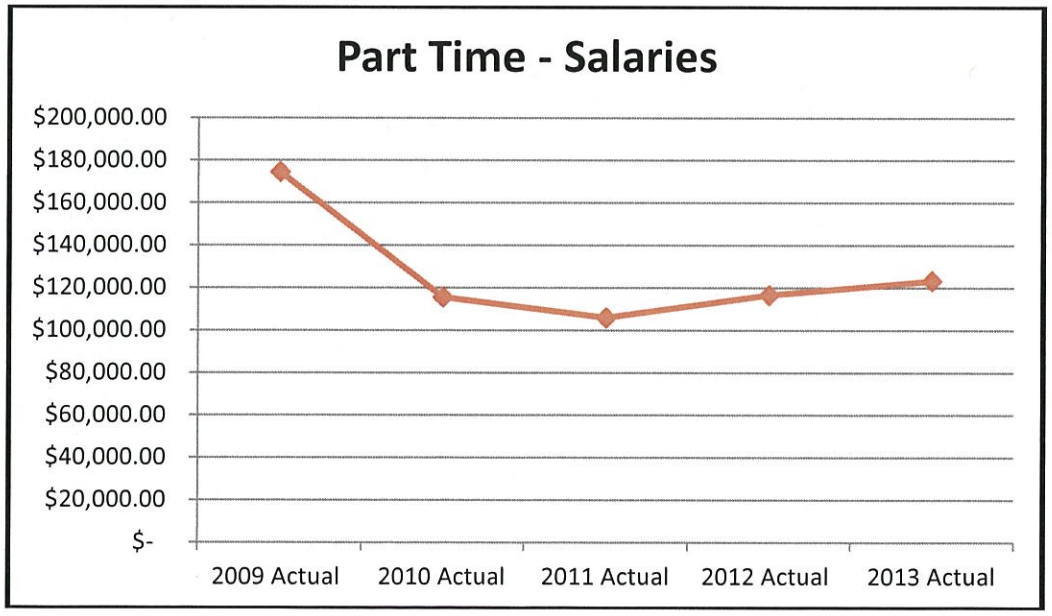
The drop from 2011 to 2012 for full time salaries directly correlates to the transition of the Legislature from fifteen Legislators to eleven Legislators. Full Time Employees have 40 hour work weeks and receive full benefits.

Chart 1 – Full Time Salaries



While the full time salaries decreased sharply from 2011-2012, we noticed the part time salaries increase in this time period. Part Time Employees have work weeks of 20 hours or less and receive partial benefits.

Chart 2 – Part Time Salaries



As with the part time salaries, the sudden sharp drop in full time salaries in 2011-2012 was countered by an increase in regular part time salaries for the Legislature. Regular Part Time are employees who may work up to 39 hour work week.

Chart 3 – Regular Part Time Salaries

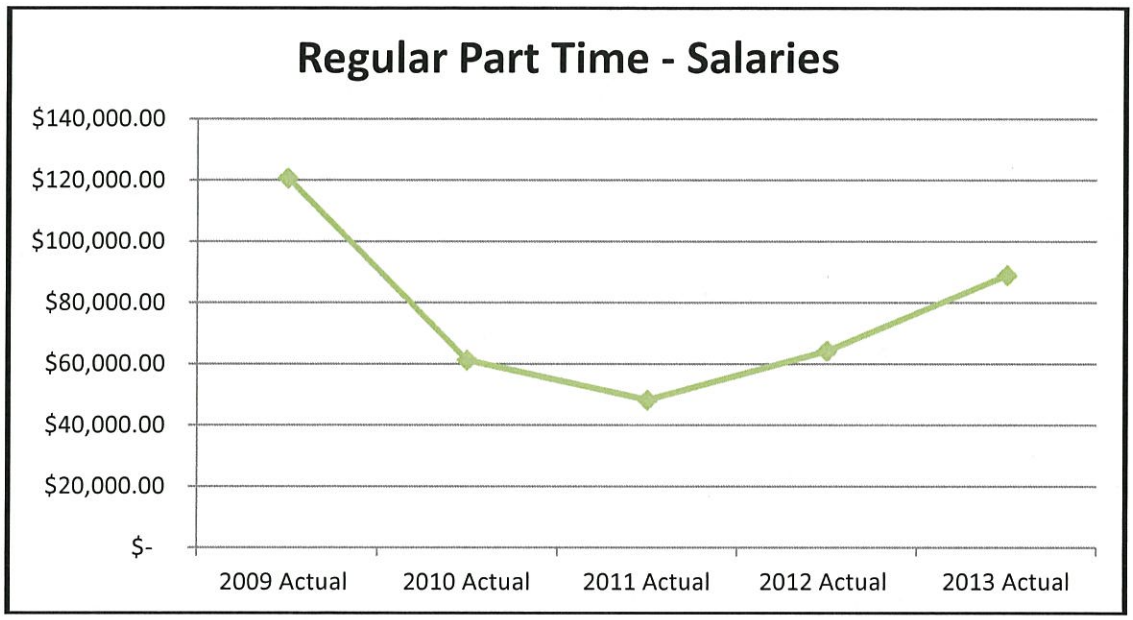
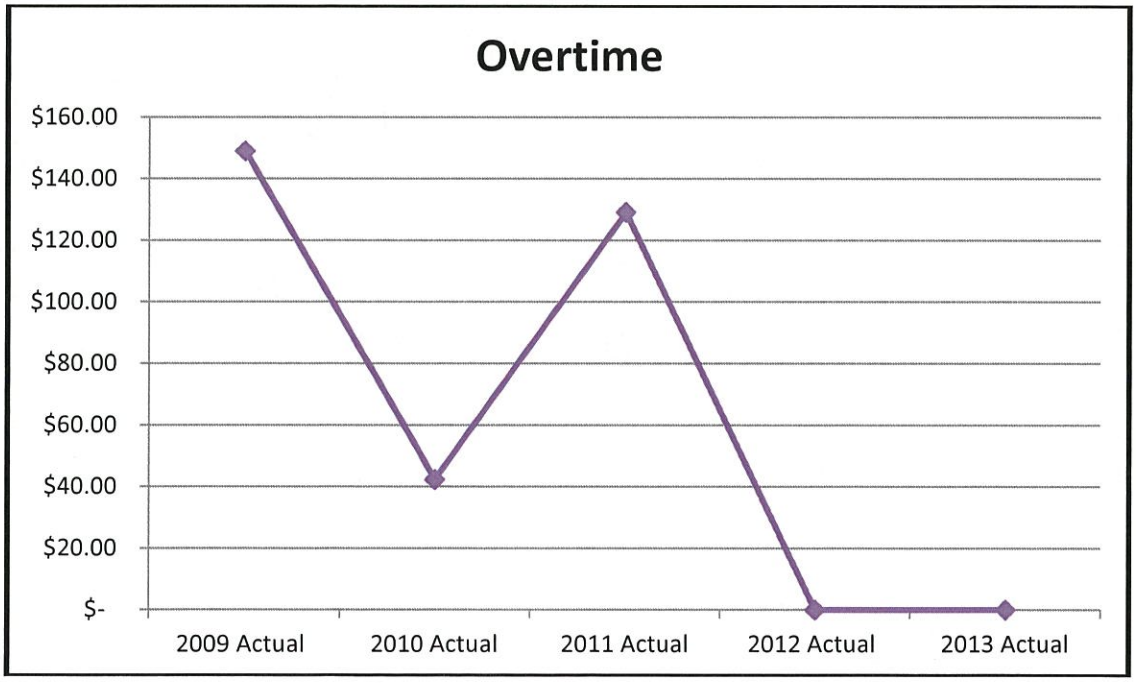
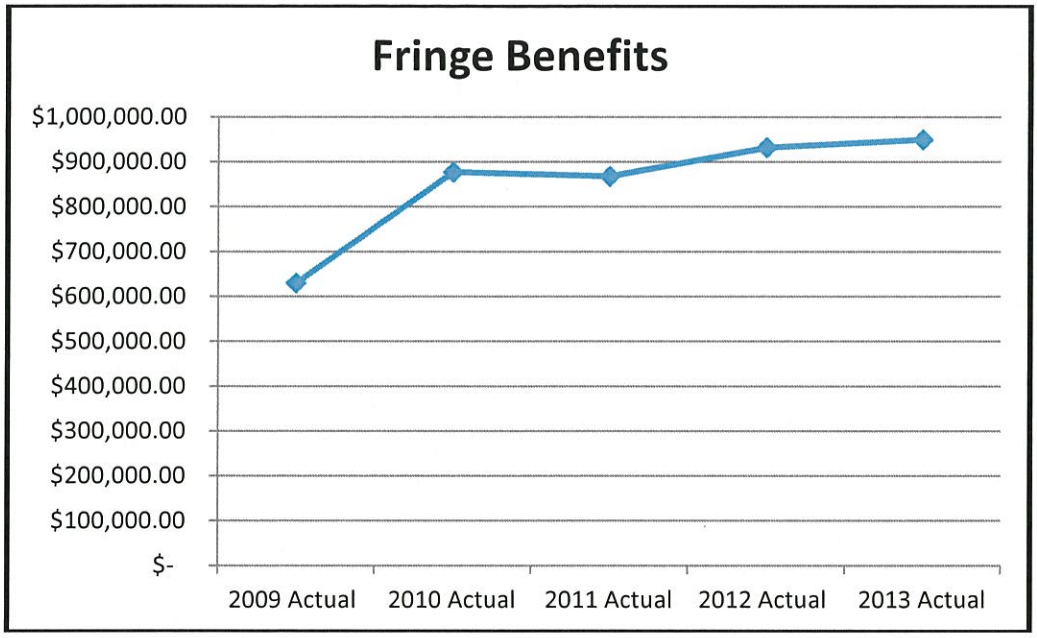


Chart 4 – Overtime



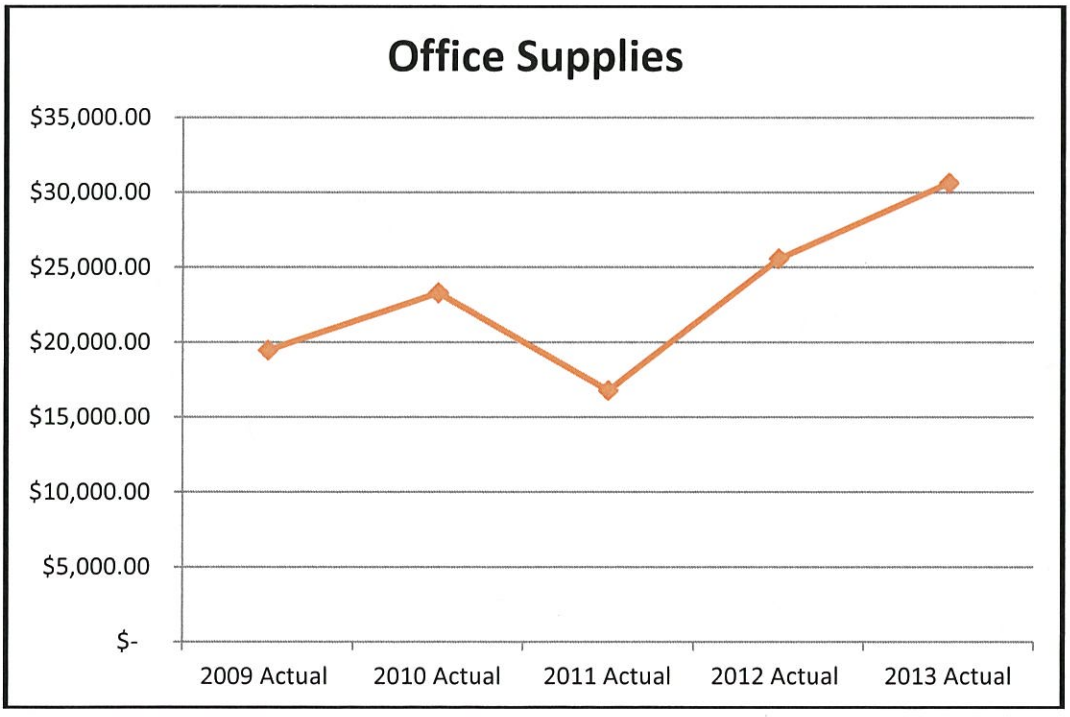
While the full time salaries dropped, the fringe benefits cost for Legislature employees has continued to rise across the review period.

Chart 5 – Fringe Benefits



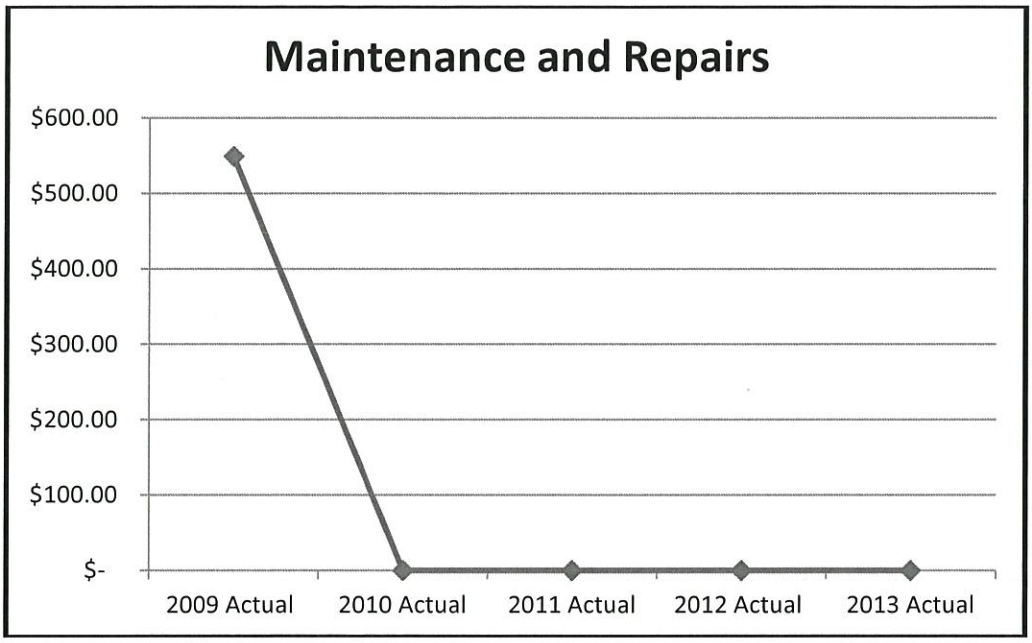
Five-Year Trending – Office Supplies

Chart 6 – Office Supplies



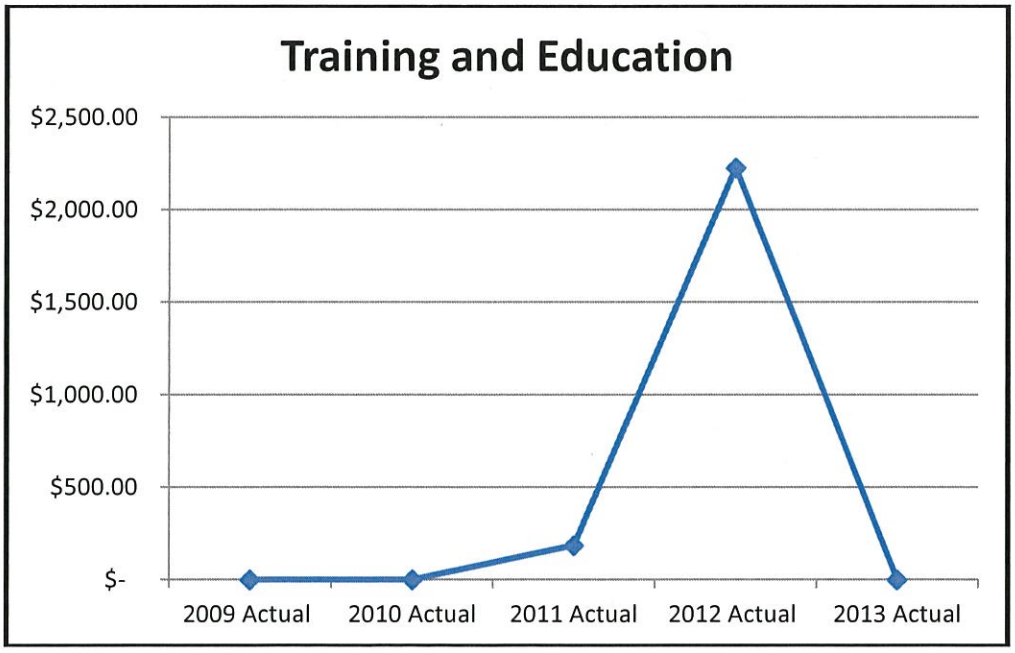
Five-Year Trending – Maintenance and Repairs

Chart 7 – Maintenance and Repairs



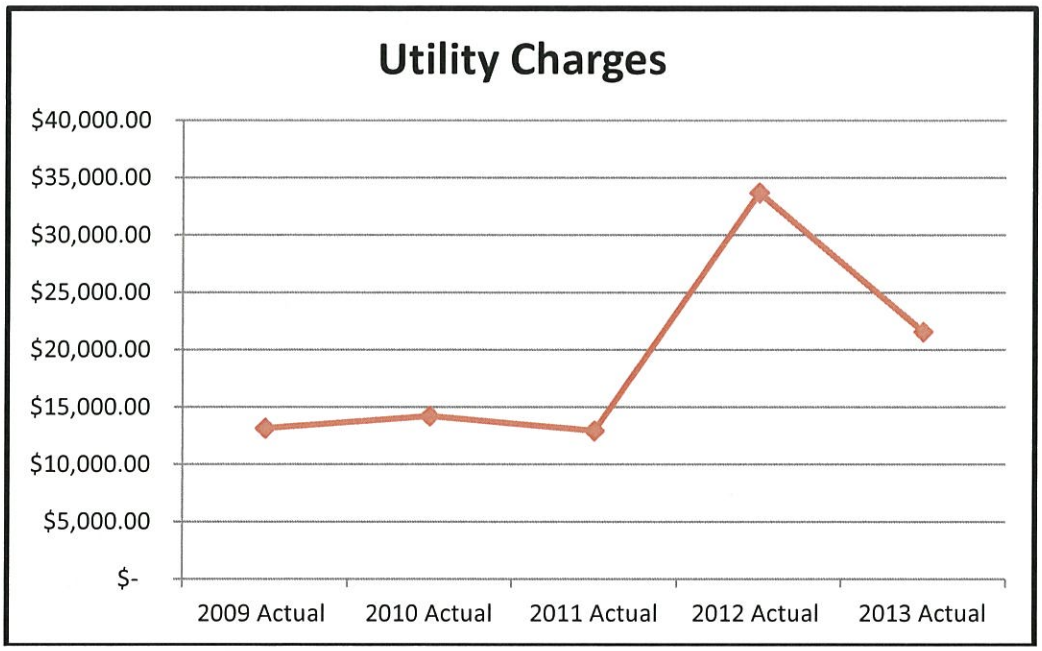
Five-Year Trending – Training and Education

Chart 8 – Training and Education



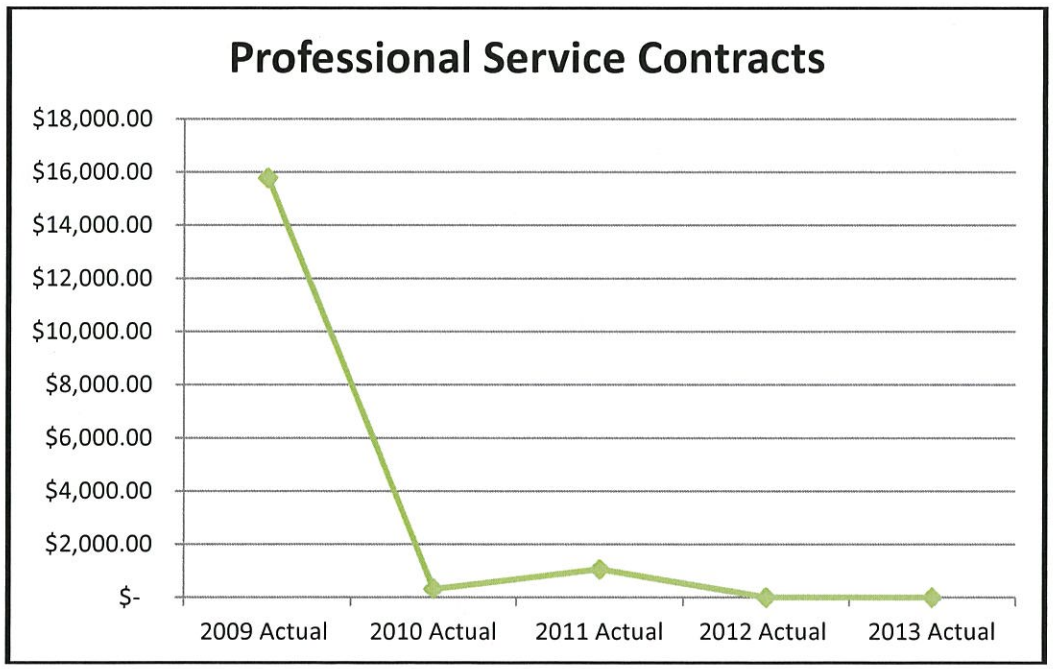
Five-Year Trending – Utility Charges

Chart 9 – Utility Charges



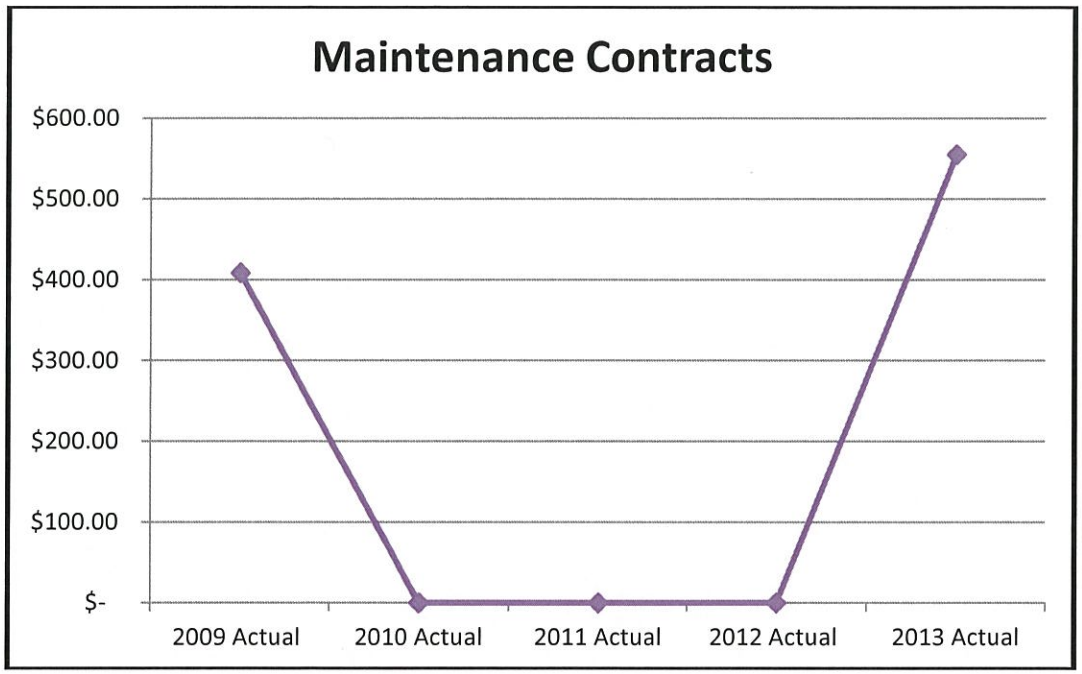
Five-Year Trending – Professional Service Contracts

Chart 10 – Professional Service Contracts



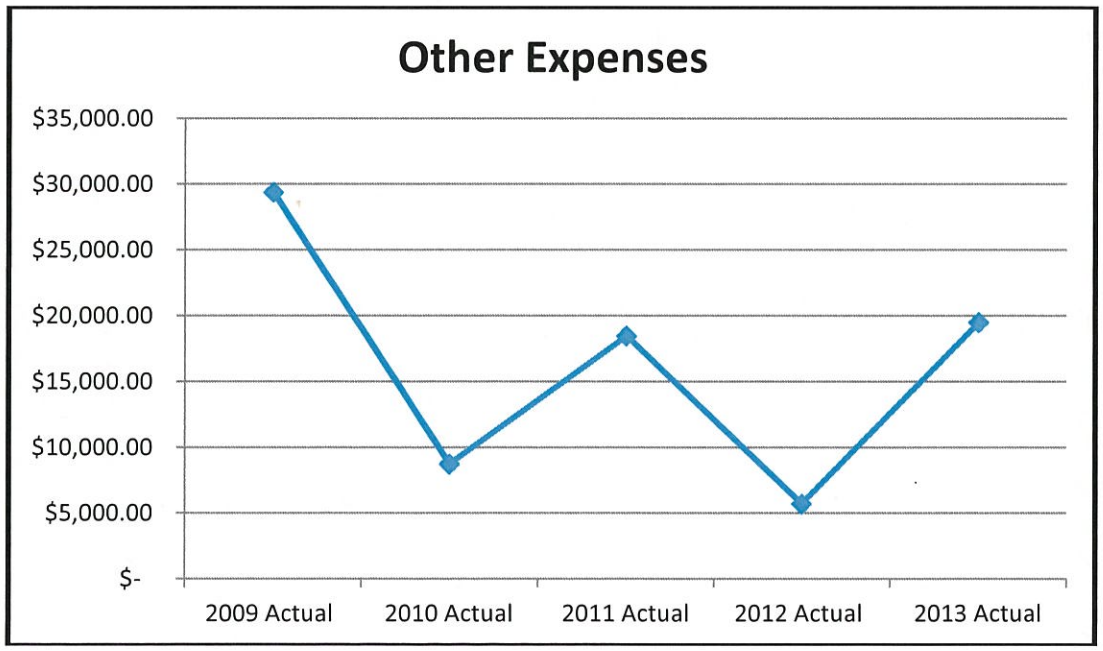
Five-Year Trending – Maintenance Contracts

Chart 11 – Maintenance Contracts



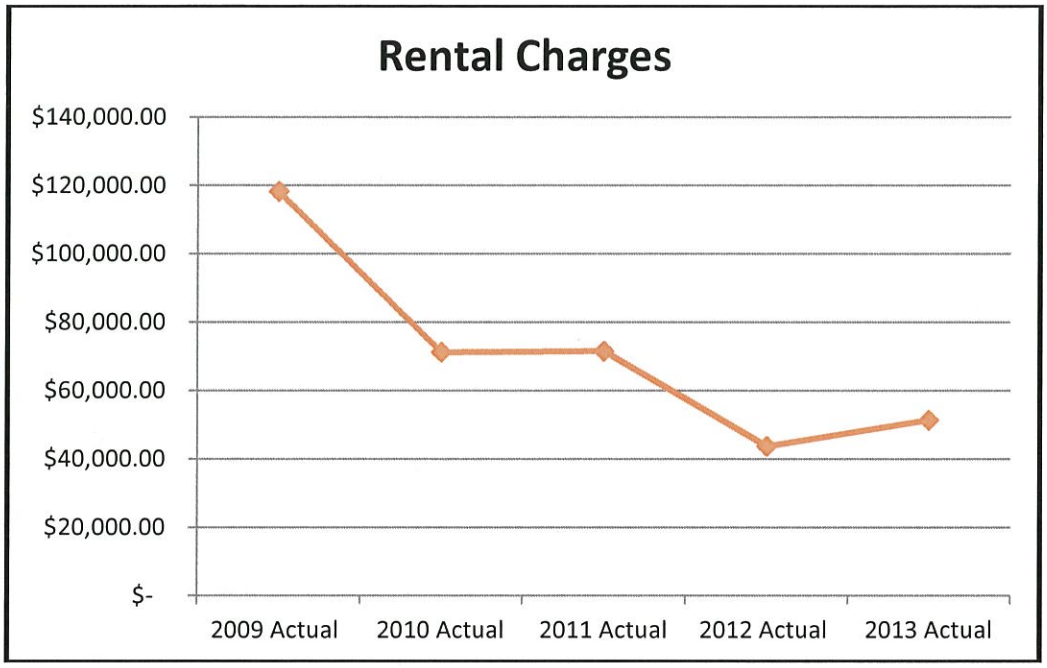
Five-Year Trending – Other Expenses

Chart 12 – Other Expenses



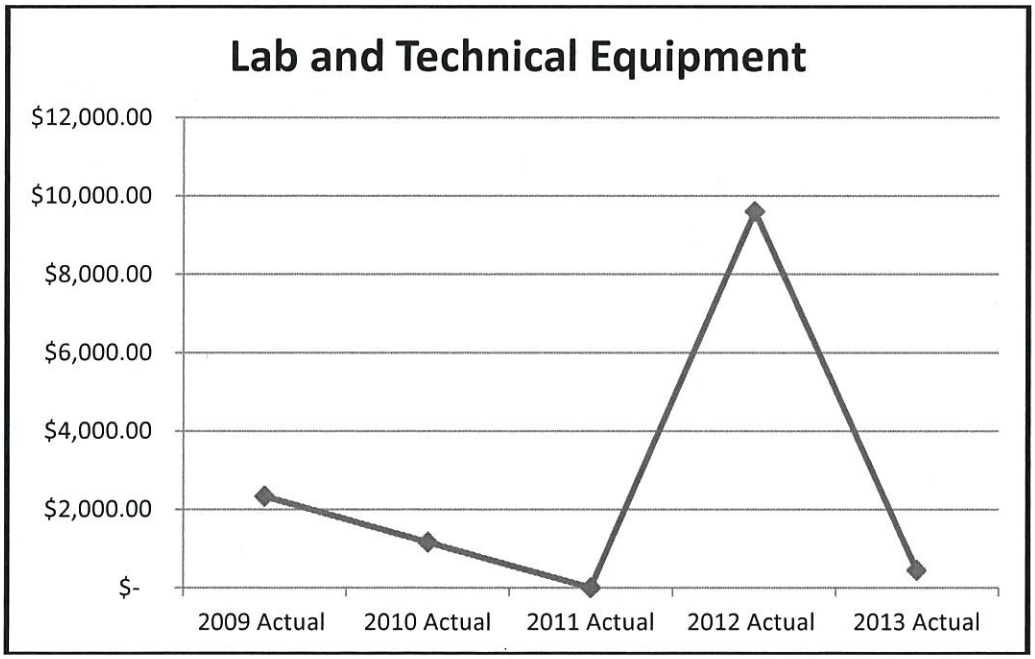
Five-Year Trending – Rental Charges

Chart 13 – Rental Charges



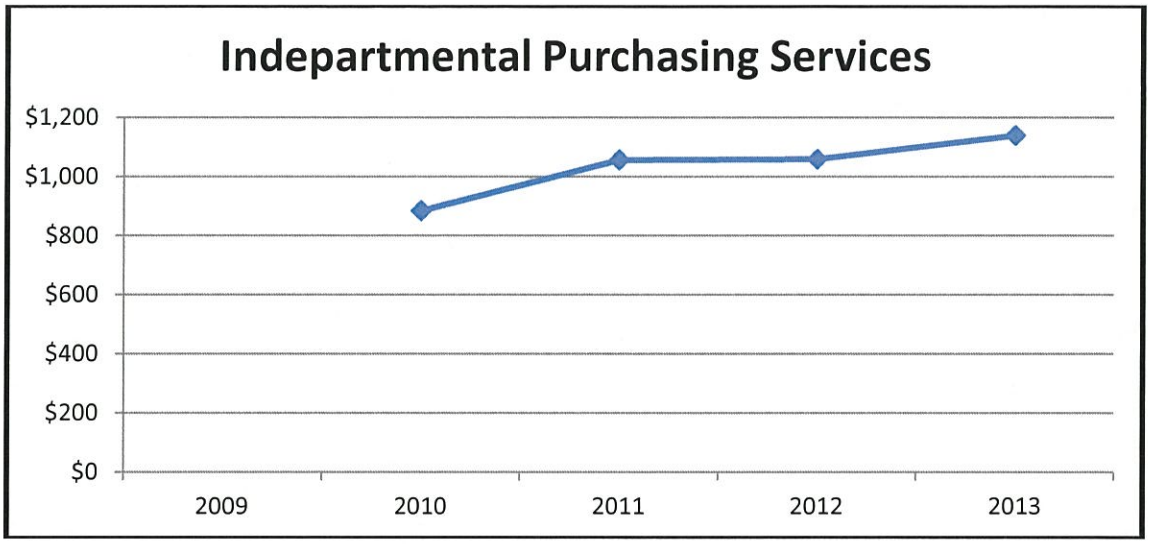
Five-Year Trending – Lab and Technical Equipment

Chart 14 – Lab and Technical Equipment



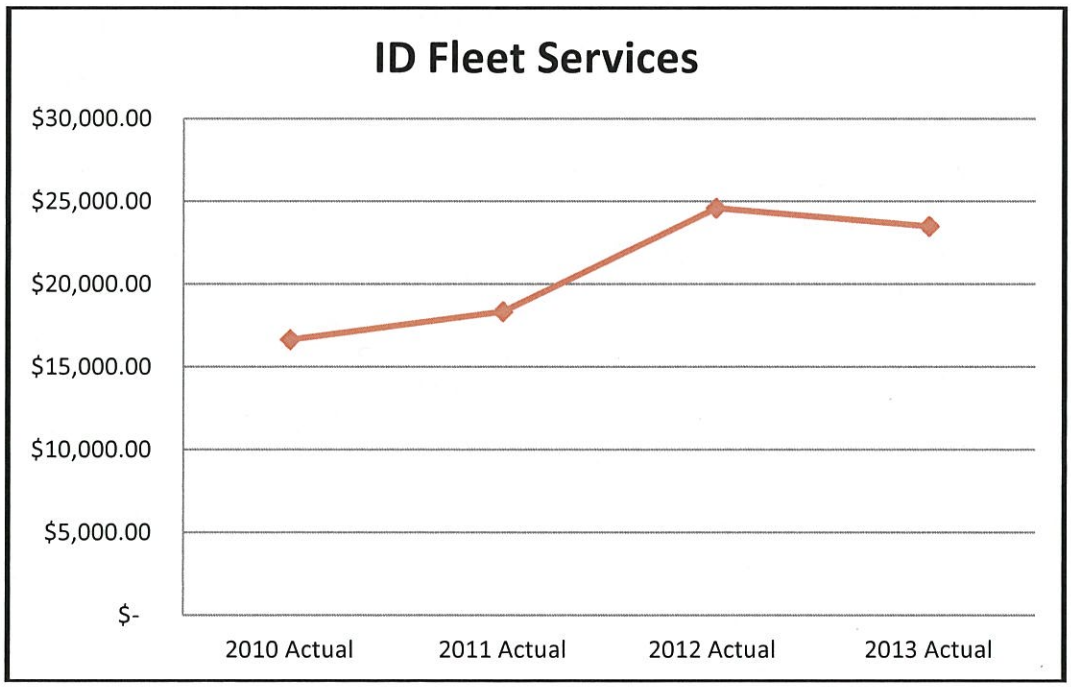
Five-Year Trending – Inter Departmental (ID) Purchasing Services

Chart 15 – ID Purchasing Services



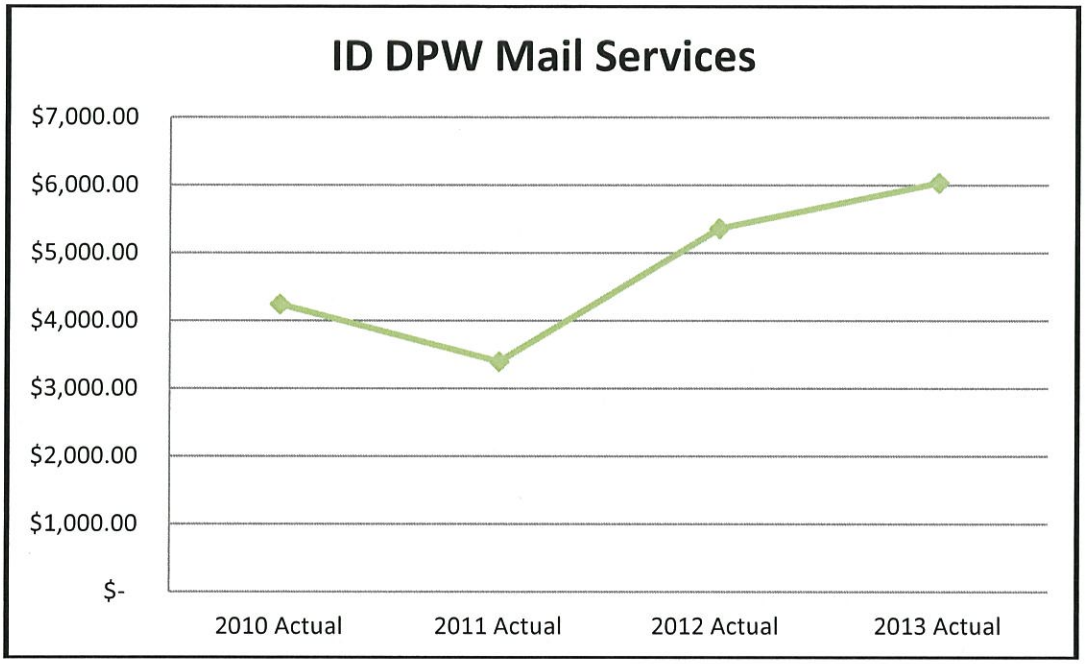
Five-Year Trending – ID Fleet Services

Chart 16 – ID Fleet Services



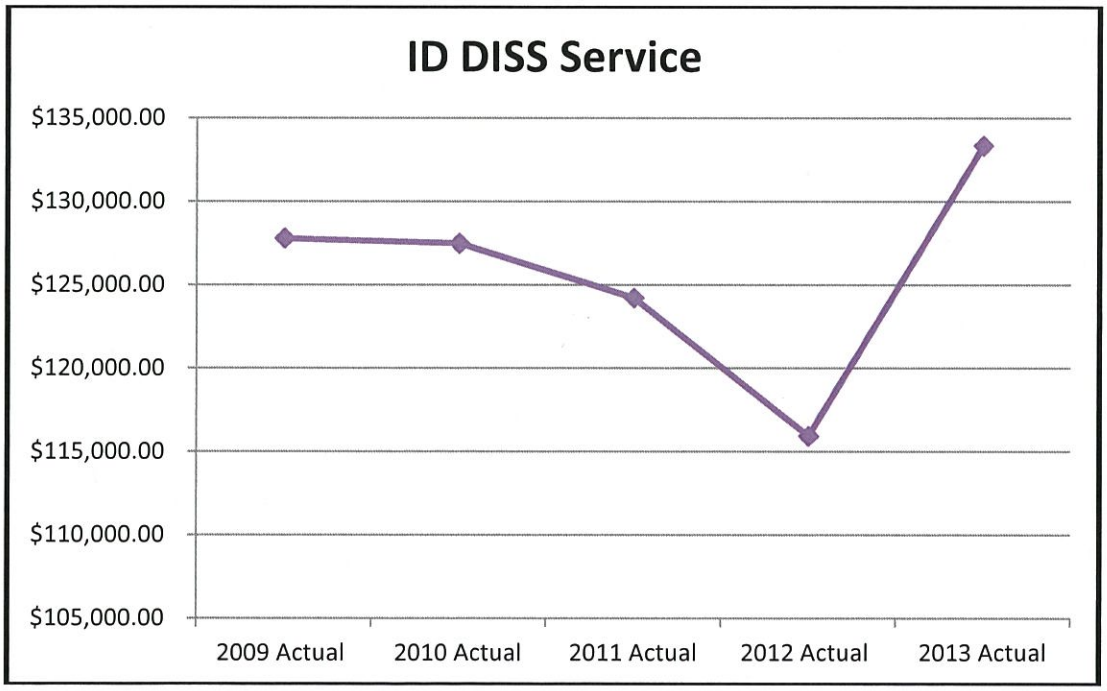
Five-Year Trending – ID DPW Mail Services

Chart 17 – ID DPW Mail Services



Five-Year Trending – ID DISS Service

Chart 18 – ID DISS Services



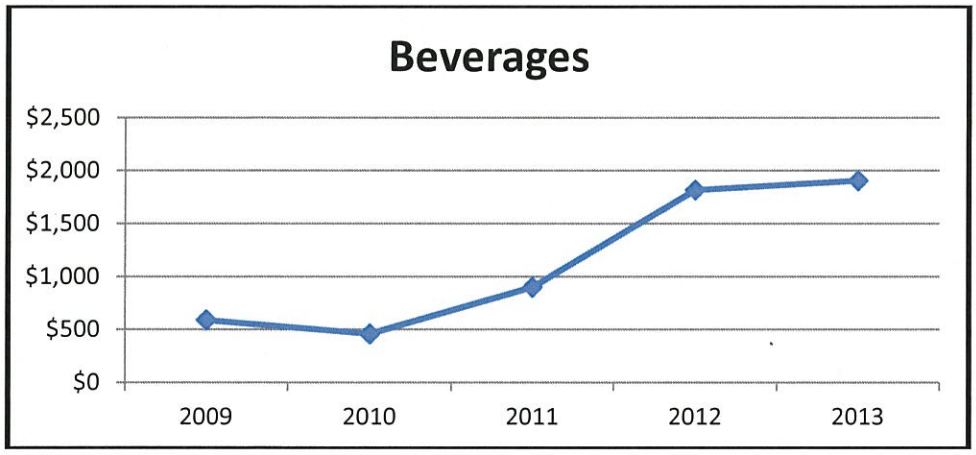
Invoice Expenditures

Below are listings of specific expenses incurred for the period January 1, 2009 through December 31, 2013. These invoices were examined and categorized by the Division of Audit. The numbers below represent expenditures from both the Majority and Minority Caucuses of the Erie County Legislature. The total purchases for the period are summarized as follows:

Beverages

Beverages includes the purchase of coffee, tea, hot chocolate, creamers, sugar, supplies such as cups, lids, and filters, as well as bottled water service.

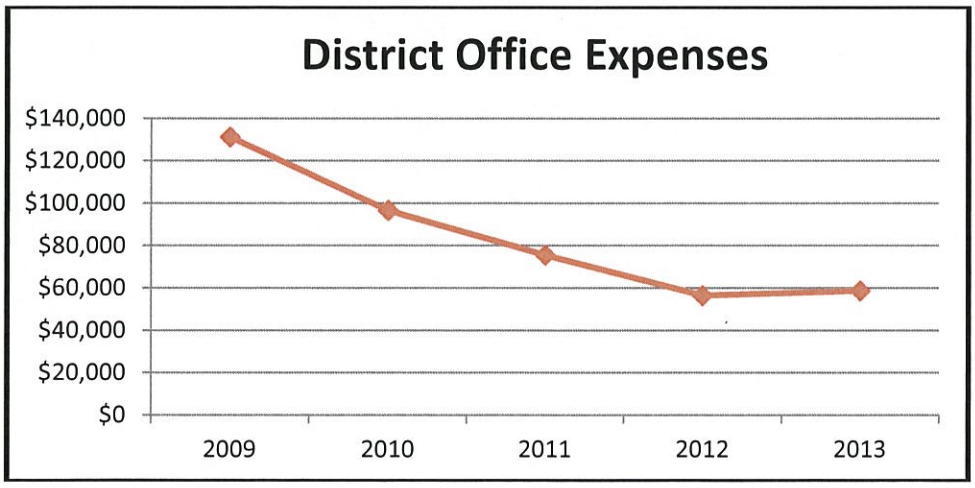
Chart 19: Beverages



District Office

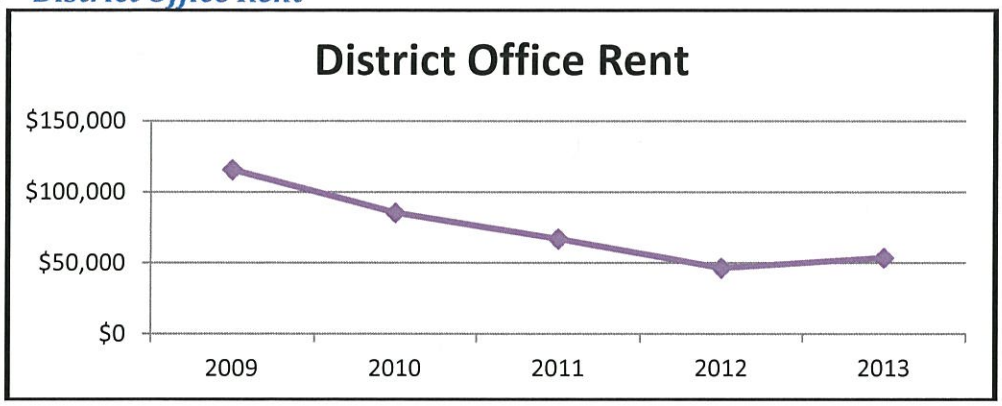
Chart 20 shows all of the district office expenses combined including rent, internet, any other expenses incurred. The decrease in total district office expenses from 2009 to 2010 is largely due to the minority caucus closing district offices beginning in 2010.

Chart 20 – District Office Expenses



In 2009 there were fifteen Legislative district offices leased, with the monthly rent ranging in cost from $475 to $725. In 2012, there were six district offices; however, rent was only paid on five due to a fire in one of the office buildings that left it uninhabitable for nine months. The number of district offices remained at six in 2013 with monthly rent ranging from $625 to $780.

Chart 21 – District Office Rent



In addition to the lease payments, all district offices also incur an additional expense for internet access at a rate of $69.95 monthly. Chart 22, shows the decrease in internet cost is due to the decrease in the number of district offices.

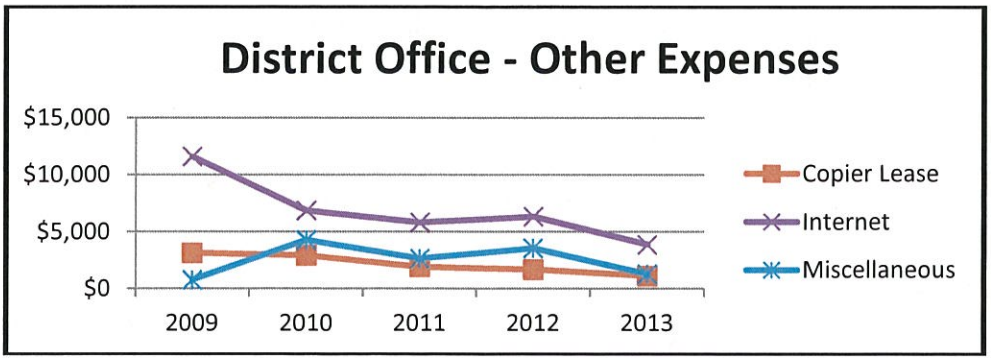
In 2009, two Legislative district offices had copiers leased with vendors outside of the Erie County contract. One of the leases expired at the end of 2009. The other lease has continued through 2013 (See Finding 1).

As stated previously in 2012, there was a fire in the building housing a Legislative district office at 7 Bernhardt Drive in Amherst. In the course of our review we found that during this period rent was not paid, however the Legislature did not cancel internet service to this location. The internet bill was paid for all 9 months the district office was not in use (See Finding 2).

In addition to internet, the district offices also have expenses pertaining to computers, phones, and Xerox copiers on county contract which are billed through DISS Interdepartmentally (ID). ID DISS services as a whole can be found in Chart 18, however direct office and Legislative Chambers expenses are grouped and couldn't be separated for this analysis.

Miscellaneous expenses include district office signs, lock repair, cleaning supplies, and commercial cleaning of furniture in one district office due to a sewer back-up.

Chart 22 – District Office – Other Expenses

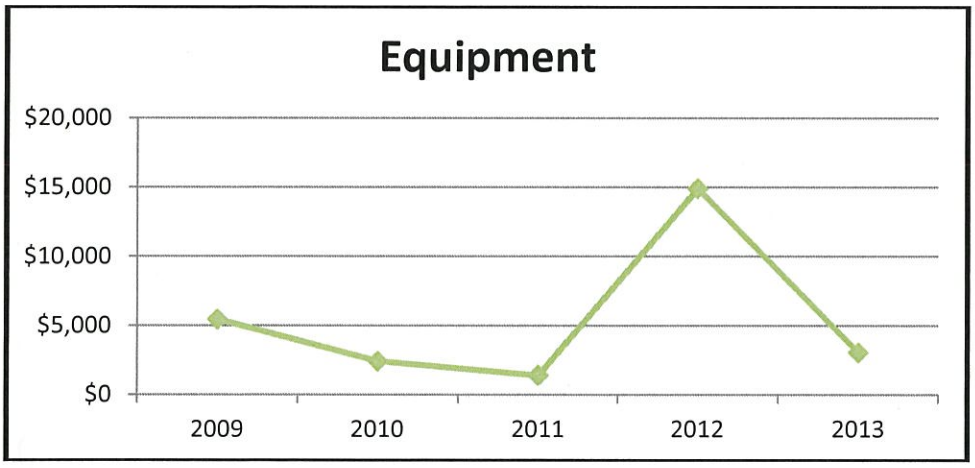


Equipment

Over the five-year review period the Legislature purchased numerous pieces of office equipment including:

- Fifteen computers and monitors $9,600.00;
- Two paper folders - $3,821.17;
- Computer accessories and equipment - $2,489.90
- Twelve shredders - $1,813.53;
- One AED - $1,625.62;
- Four printers - $1,351.92;
- Two paper trimmers - $1,070.05;
- One copy/fax machine - $997.00; and
- Ten telephones - $804.13

Chart 23 – Equipment



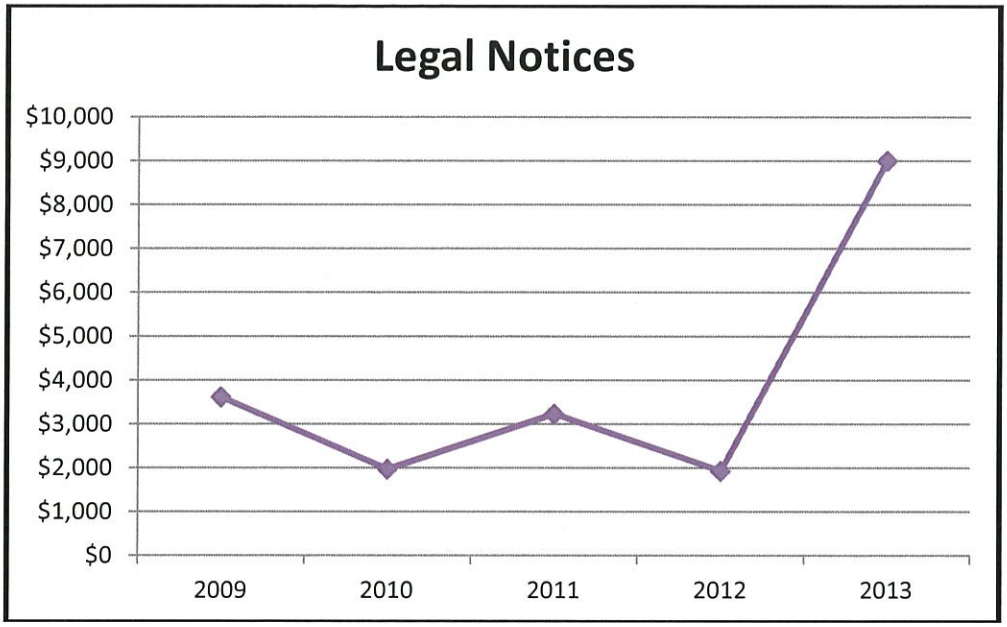
(See Findings 6, 8, and 10)

Legal Notices

The Erie County Legislature is required to publish Legal notices in local publications to notify taxpayers of items such as meetings, passed resolutions, and proposed budgets. Both the Majority and Minority Caucuses designate a paper for these notices to be printed. For 2013 the Minority designated the Amherst Bee and the Majority designated the Challenger.

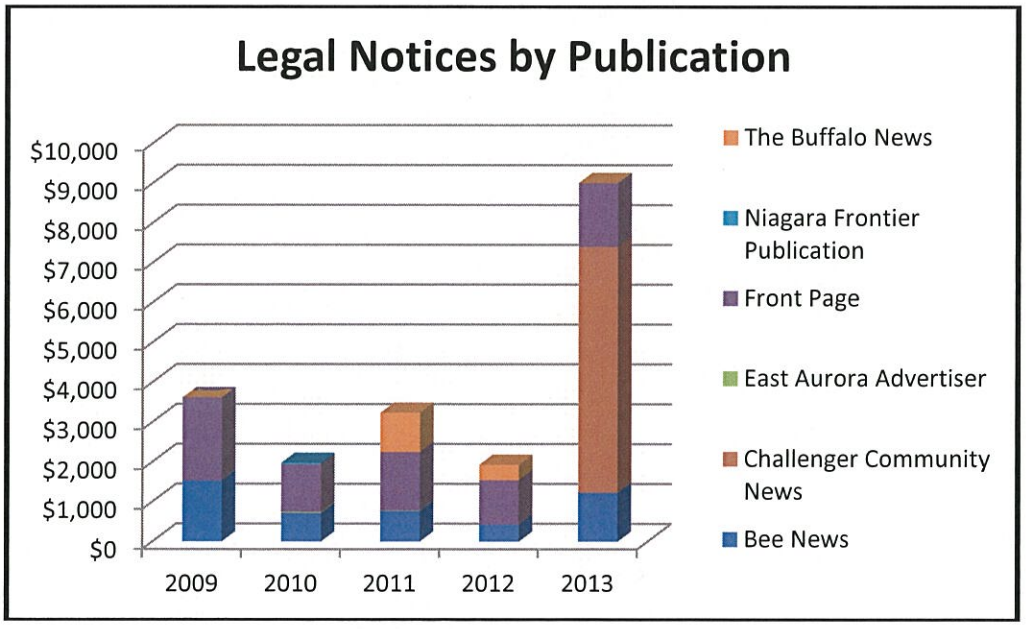
In addition to Legal Notices, Papers for Concurrent Resolutions are also printed in designated publications. In 2013 the Majority designated the North Buffalo Rocket, and the Minority designated the Grand Island Dispatch. A breakdown of expenses for Legal Notices can be found in Chart 24.

Chart 24 – Legal Notices



The distribution of legal notices by publication was as follows:

Chart 25 – Legal Notices by Publication



Miscellaneous Expenses

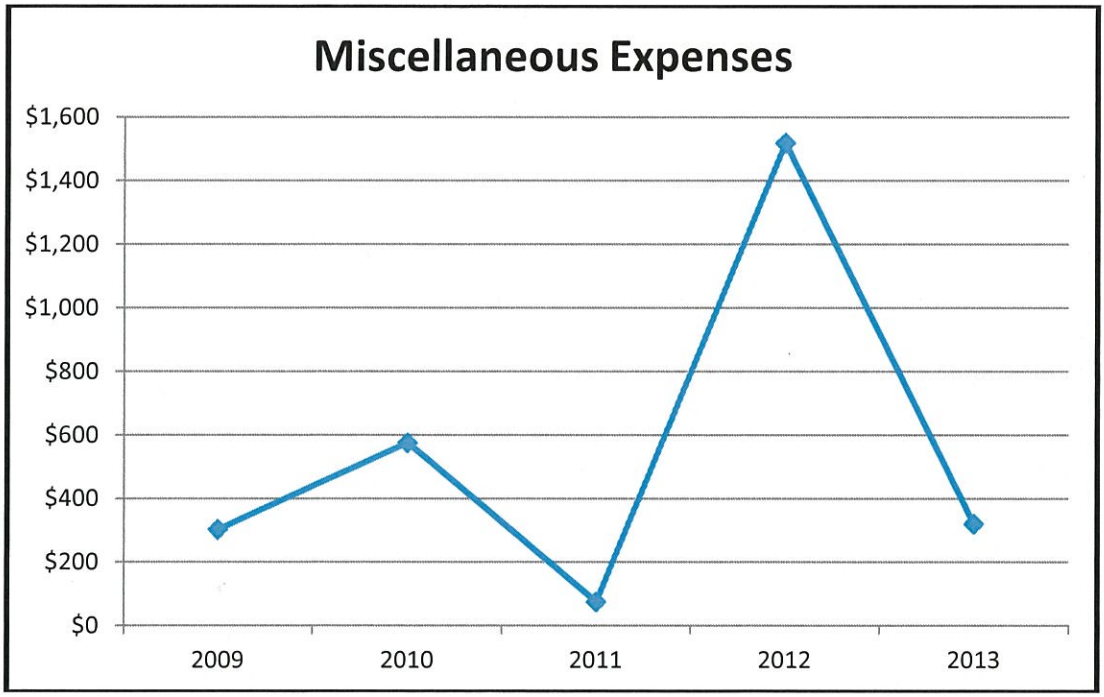
Miscellaneous expenses included a total of $116.41 in late fees incurred due to late payment of invoices for Internet service (See Finding 5). Sales tax was also improperly paid to two separate vendors (See Finding 6).

The large increase in miscellaneous expense in 2012 included a first aid room being added to the Legislative offices located at 92 Franklin St, Buffalo, NY 14202. A total of $594.25 was spent on first aid supplies such as bandages, gloves, and cold packs, as well as over-the-counter medications such as acetaminophen, aspirin, antacid, and allergy medication. Additionally, CPR student workbooks and masks, a blood pressure monitor, an ear/forehead thermometer, and a body fat scale were purchased.

*Note: The Rath Building located across the street from 92 Franklin at 95 Franklin St, Buffalo, NY 14202 has a full service health clinic on the 2nd floor.

An additional $543.00 was incurred purchasing six "All Gave Some" signs as well as "Welcome Home Veterans" badges.

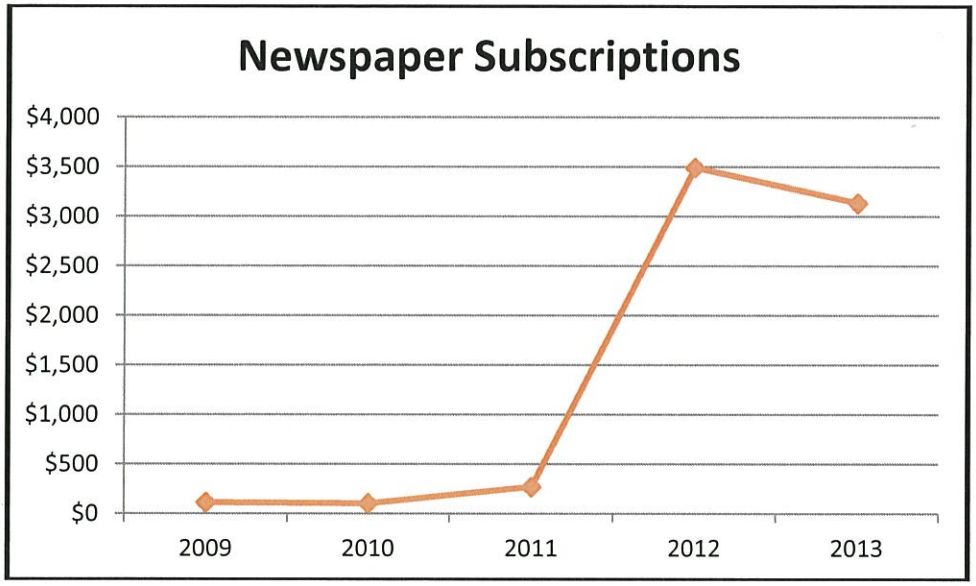
Chart 26 – Miscellaneous Expenses



Newspapers

The sharp increase in newspaper subscription expense is due to the purchase of twenty-one online subscriptions to The Buffalo News in 2012 and nineteen in 2013. These subscriptions have an annual cost of $144.04.

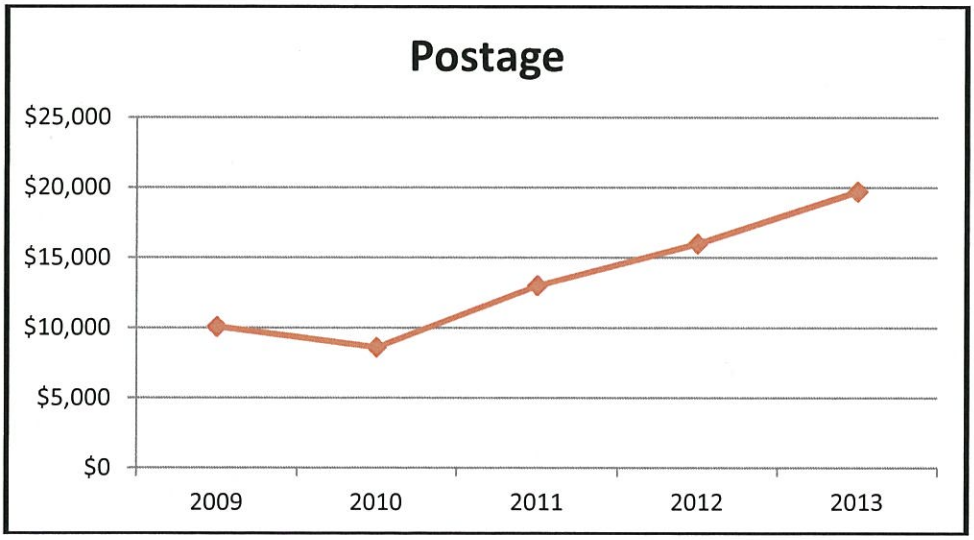
Chart 27 – Newspaper Subscriptions



Postage

The postage totals reflected in Chart 28 represent postage purchased from the United States Postal Service. Chart 29 shows Legislators who have utilized an annual postage allotment for their district office. Postage expense is also incurred through use of the Erie County Mail Room, and is billed separately through interdepartmental billings.

Chart 28 – Postage



The annual postage allotments to each Legislator can be seen in Chart 11:

Chart 29 – Postage Allotments Taken Annually

Year	Amount	# of Legislators
2009	$820	1
2009	$840	8
2009	$880	3
2010	$572	1
2010	$880	1
2010	$1,000	7
2011	$1,000	13
2012	$1,500	12
2013	$1,500	1
2013	$2,000	9

The cost of a first-class stamp was $0.42 as of January 1, 2009. The cost rose to $0.44 as of May 11, 2009. The price again increased on January 22, 2012 to $0.45. The chart below shows the number of first-class stamps that could be purchased each year given the amount spent on postage that year. For years with a postage increase, a weighted average was used for postage price, based upon the number of days the postage rate was in effect.

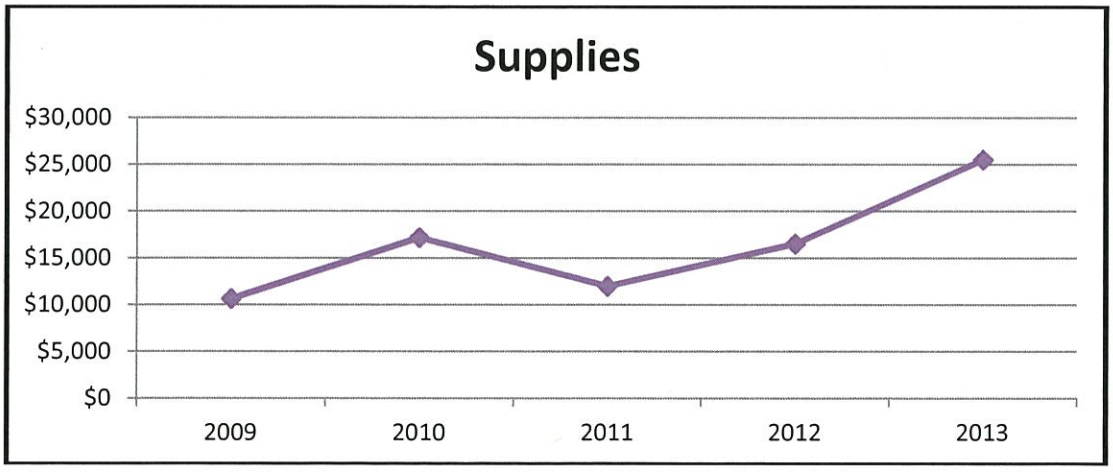
Chart 30 – Postage Costs in Terms of First Class Stamps

Year	# of First Class Stamps
2009	23,436
2010	19,569
2011	29,577
2012	35,572
2013	43,833

Supplies

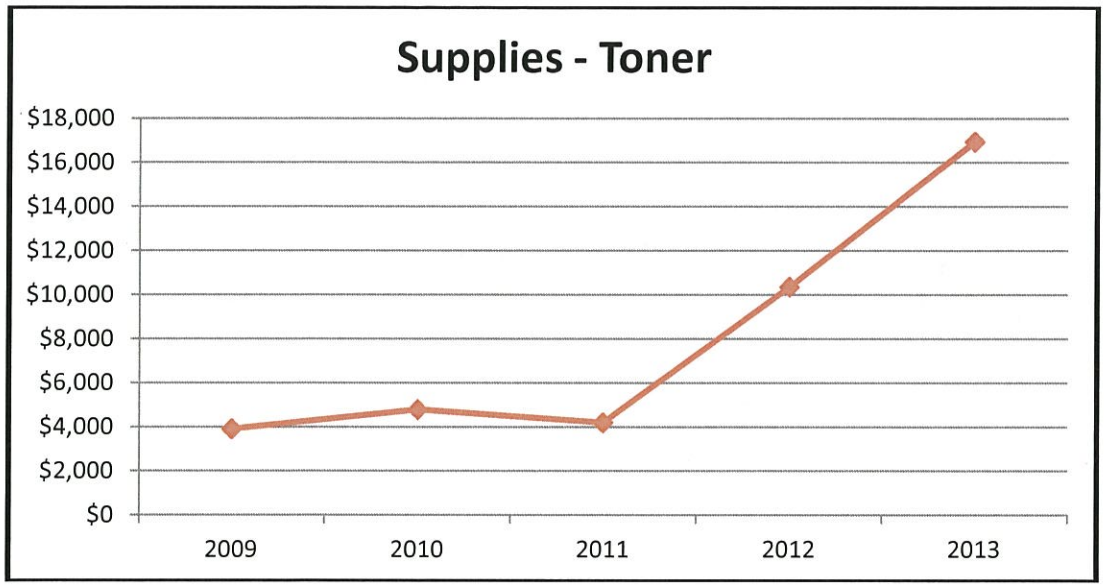
Supplies include paper, pens, calendars, and printer toner.

Chart 31 – Supplies



Printer toner purchased (excluding toner obtained through Interdepartmental billings) totaled $40,993.04 for the period under review. Toner cost increased 268% from 2009 to 2013 (See Finding 9).

Chart 32 – Supplies – Toner



Interdepartmental Expenses

Certain Erie County departments bill other County departments for their services to accurately track the cost of services and maximize reimbursements. The Legislature had interdepartmental billings from:

- Bureau of Purchase;
- Department of Information and Support Services;
- Department of Public Works – Fleet Services; and
- Department of Public Works – Mail Room.

Interdepartmental billings do not reflect actual activity. Rather the department's total costs are allocated pro rata across the County departments that utilize the department's services.

The figures below represent actual interdepartmental billings for 2009 through 2012 and the adjusted budget amount for 2013.

Division of Purchase

The Bureau of Purchase (Purchase) is the central purchasing agent for the County. Some of their functions include soliciting bids, issuing requests for proposals, and approving purchasing requisitions. Purchase was included as part of the DISS interdepartmental billing in 2009. See Chart 15.

Department of Information and Support Services

The Department of Information and Support Services (DISS) provides technological support for all County departments including computer and telephone support. Departments receive toner for County copiers/printers through DISS. DISS also runs a print shop for high-volume specialty printing. The 2009 interdepartmental billing includes Mail Room Services, Fleet Services, and Purchase. See Chart 18.

Department of Public Works – Fleet Services

Fleet Services manages the acquisition and disposal of all County vehicles and equipment, vehicle maintenance and repair, fuel, and motor pool vehicles. The Legislature does not have any County-owned vehicles; however a County motor pool vehicle can be used for County business. Fleet's Interdepartmental billing was part of DISS's interdepartmental billing in 2009. See Chart 16.

Department of Public Works – Mail Services

The Department of Public Works (DPW) operates a mailroom in the Rath Building for County Departments. The mailroom processes both incoming and outgoing mail. Outgoing mail does not need postage prior to being sent to the mailroom. DPW did not have a separate Mail Services Charge in 2009. See Chart 17.

Findings

1) Leased Copier

The Legislature entered into a five-year lease for a Cannon copier with GE Capital to be utilized in a Legislator's district office. The lease commenced in May 2003 with monthly payments of $119. The lease ended in April 2008. The provisions of the lease require that GE Capital be notified within sixty to 120 days of the lease termination date of the leasee's desire to terminate the lease, or the lease automatically renews for increments of nine-months.

Since April 2008, the Legislature did not contact GE Capital per the terms of the lease to cancel service, and the lease has continued to renew in nine-month increments ever since. Also beginning at the expiration of the initial lease, in May 2008 the fee increased to $124 per month. The copier was located in a Legislative district office, and when one Legislator's term ended, another Legislator assumed possession of the leased copier.

In addition to the monthly lease payments, the Legislature paid for a service contract with United Business Systems, Inc. (UBS) for quarterly maintenance, supplies, and excess print charges for this copier. During the review period starting in 2009, the Legislature paid $7,640 in lease payments and an additional $2,553.71 for the maintenance contract. In total, the Legislature paid $10,793.71 for this leased copier during our review period.

In August of 2012 the monthly service contract with UBS was terminated by the Clerk of the Legislature while the lease with GE Capital remained active. When Audit made inquiries to the Legislature regarding this copier, we learned it has not been in working condition since early 2012, and the office was in possession of a Xerox copier from DISS. We were advised that several attempts were made to have the Cannon machine repaired however it was damaged beyond repair.

From the date of service cancelation with UBS in August 2012 until the end of our review period in December 2013, the Legislature paid $2,108 to GE Capital for a printer which did not work, and which had been renewed every nine months for almost 6 years. The lease could have been canceled and the equipment returned following any one of the nine month renewals with no further fees.

During the course of Field Work, the Division of Audit issued an Interim Review Memorandum (IRM) to the Legislature recommending the Legislature cancel the lease with GE Capital as soon as possible and return the equipment in accordance with the contract signed in 2003.

The Legislature responded to our IRM on March 10, 2014, stating they agreed with our recommendation. On March 24, 2014 the Audit Division received confirmation that the lease had been terminated. During the Exit Conference on April 28, 2014 the Legislature informed Audit that they were in the process of purchasing the printer for the outstanding balance of $124. The Legislature has informed the Audit Division they will provide evidence of the purchase once it has been finalize and documentation is available.

Per our IRM, **WE RECOMMEND** that the Legislature follow through on canceling the lease with GE Capital in the most cost effective manner possible.

2) Internet Access Paid for Despite Office Not Being Used

In December 2011, a fire occurred in the office building located at 7 Bernhardt Drive in Amherst housing a Legislative district office, rendering it unusable for nine months. During these nine months the office was moved to the Legislative Chambers in Old County Hall. During this period, Internet access at that district office was never canceled. Erie County paid $700.25 for this period of time.

During the Exit Conference a staff member of the Legislature explained that the payments to Time Warner continued because the Legislator whose office had the fire still needed to have access to his Roadrunner email account. The Legislator wanted to continue to use this Roadrunner account instead of County provided email because it worked better on his cell phone, and because their assistant was "not tech savvy" and was not familiar with how to use the county email system. The Division of Audit does not feel this explanation is sufficient to explain the spending of $700.25 of taxpayer funds, when an alternate email address had already been provided to the Legislator by DISS.

During the course of Field Work, the Division of Audit issued an IRM to the Legislature recommending: (1) The Legislature contact Time Warner to determine if a refund for these services can be granted (2) The Legislature ensure that goods or services were received before approving invoices for payment.

The Legislature responded to our IRM on March 10, 2014 stating they agreed with our recommendations from this memorandum and that Legislative staff would begin working on remediative actions immediately.

During the Exit Conference on April 28, 2014 the Legislature provided the Division of Audit with evidence that Time Warner Cable has agreed that since the internet services were not used, Time Warner would grant the Legislature a credit for the full amount totaling $700.25.

Per our IRM, **WE RECOMMEND** that the Legislature contact Time Warner to obtain a credit for internet service at this district office for the months in question. Per the outcome of our Exit Meeting, we feel this part of our recommendation has been satisfied. **WE FURTHER RECOMMEND** the Legislature develops a policy whereby they verify that goods or services were received before approving invoices for payment. **ASLO, WE RECOMMEND** this policy to be included in a set of overall Policies and Procedures developed by the Legislature and approved by the body of the Legislature.

3) Receipt of Services without a Formal Contract

In 2012 and 2013 the Legislature obtained services from two different photographers without putting the service out to bid, and without a formal contract in place stating terms of service, rates, or ownership rights to the prints.

Through inquiry, the Audit Division ascertained that the services rendered were at the rate of $150 per hour. In 2012 and 2013 Princess Photography was used for four different Legislative Sessions totaling $540.00, and in 2013 Maria Kozub was used for four Legislative Sessions totaling $650.34.

WE RECOMMEND that the Legislature follows county Policy with regards to putting out bids for service contracts to ensure the best pricing. **WE FURTHER RECOMMEND** that when the Legislature obtains a service they do so with a properly executed contract that is approved by the Legislature, and in accordance with county policy.

4) Reimbursements to Employees

During the period under review, an employee of the Legislature received fifteen separate reimbursements totaling $4,655.43 for purchases made with personal funds on behalf of the Legislature. These reimbursements included items such as office supplies, food, soda, individual stamps, and cleaning supplies. In fourteen of these reimbursements the employee submitted the applicable receipts and approved his own reimbursement request without any additional approval or signoff. In one instance, the reimbursement contained a letter of approval from the sitting Chairperson of the Legislature. (For a complete list of reimbursements please see Appendix II)

The Legislature does not maintain a petty cash account, which on occasion necessitates an employee using personal funds to make miscellaneous purchases for the Legislature. Proper internal controls require that an individual other than the employee incurring the expenses approve the receipts for reimbursement.

One receipt for cleaning supplies incurred in 2012 contained $118.70 that could not be detailed. The receipt was folded when copied, and therefore was missing the detail on these expenses.

WE RECOMMEND that the Legislature devise a set of policies and procedures specifically governing personal reimbursements that includes: (1) expenses eligible for reimbursement; (2) individuals authorized to make purchases; (3) designated individuals who will perform a second level of review to both authorize purchases and approve reimbursement; and (4) requirement to submit original copies of all receipts for which reimbursement is sought. The approver(s) should ensure that the submitted receipts are for proper expenditures and that no sales tax is reimbursed. **WE FURTHER RECOMMEND** these policies be approved by the Legislature.

5) Late Fees

During our review we noted that on numerous occasions the Time Warner Internet bills were paid late. Most of the bills showed past due balances of one month or more. In nine instances the Legislature's payments were multiple months late, and incurred late fees totaling $116.41.

WE RECOMMEND that Legislature require the employee(s) responsible for paying Time Warner internet bills for each district office develop a tracking system to ensure that these internet bills are paid on a monthly basis. **WE FURTHER RECOMMEND** that this process be included in the Legislature's approved policies and procedures recommended in Finding 2.

6) Furniture Cleaning

Eighteen chairs were professionally cleaned, deodorized, and stain-protected at a cost of $676.20. One chair had a total service cost of $99.91; three chairs a total of $89.85 each, and the remaining fourteen cost $21.91 each. This cost was incurred due to a sewer back up at a

Legislator's district office. Per the former Senior Administrative Clerk the appointment was scheduled with the vendor as instructed by the Legislator whose office it was. The Senior Administrative Clerk explained that the Legislator contacted the Department of Purchase (Purchase) and was informed that this service did not require a bid because it constituted a "health emergency." Per the Director of Purchase, a buyer may select the first available vendor.

In addition, Erie County is a sales tax exempt entity, when purchasing this service, the Legislature should have presented a sales tax exemption certificate.

WE RECOMMEND that the Legislature document and retain such e-mail approvals such as these from Purchase in order to support the deviation authorization from normal purchase procedures.

WE ALSO RECOMMEND that if a service such as this is necessary in the future that the Legislature determine whether replacement furniture is available in the County surplus warehouse. It is possible that the cleaning cost may have exceeded the value of the chair where as surplus furniture could have been obtained from the County Surplus Warehouse at no cost.

WE FURTHER RECOMMEND that a sales tax exemption certificate be provided to vendors when applicable. Invoices should be approved for the net amount only, excluding any sales tax.

7) Proper Procedures Not Followed in Purchasing Printers

Erie County utilizes an exclusive contract with OfficeMax for the purchase of office supplies. Approved employees can log-on to a purchasing website to buy items for their departments directly. Items that are not included on the contract are "restricted items," and are blocked from purchase. During our review we noted that numerous items which are "restricted" were purchased by the Legislature. After following up with Purchase, we found that a glitch in the OfficeMax website allowed certain "restricted" items to be available for purchase.

The County policy for purchases of equipment (i.e. printers, typewriters, etc.) dictates that they should all be made through Purchase. To buy these items, the department should send a purchase requisition to Purchase, who then obtains the item for the department.

Due to the error in the OfficeMax website, the Legislature was able to purchase three printers and one typewriter. An additional printer was purchased at Office Depot and by the Clerk of the Legislature who was later reimbursed.

The purchases of the four printers and the typewriter circumvented County purchasing policies by not preparing a purchase requisition and obtaining proper approvals. Further, in the instance of the typewriter, one may have been available in the County's surplus warehouse, which could have been obtained by the Legislature at no cost.

WE RECOMMEND that all staff of the Legislature responsible for purchasing review the current County purchasing policies to ensure compliance, to prevent improper purchases from occurring and to utilize existing County contracts.

WE ALSO RECOMMEND that the Legislature utilize the County Warehouse for surplus equipment or furniture whenever possible.

8) Proper Procedures Not Followed in Purchasing Toner

Similar to equipment, toner should have also been a restricted item. Toner was however available for purchase. In 2012 and 2013 alone, a total of 177 black and color toner cartridges were purchased. The cost of toner for these two years was $10,361.85 and $17,022.81 respectively.

Due to the volume and cost of toner purchased a purchase requisition should have been completed and sent to Purchase for acquisition.

In addition to the County purchase policy not being followed, the County also has a contract for refilled toner. This contract allows for the recycling of toner cartridges, and guarantees that the refilled toner cartridge will work, or it will be replaced at no charge. In the event the printer is damaged, the printer will be repaired by the vendor also at no charge. Utilizing this vendor for toner purchases would have saved the Legislature $9,108.69, or 53.5%, in 2013 alone.

WE AGAIN RECOMMEND that the staff of the Legislature responsible for purchases review County purchasing policies to ensure compliance with all purchasing requirements.

WE ALSO RECOMMEND that the Legislature consider the use of refilled toner cartridges in a cost savings measure.

9) Purchases Made With Vendors Other Than Contracted Vendor

As discussed in Finding 8, Erie County has an exclusive purchase contract with OfficeMax for office supplies. The following office supplies were purchased at Office Depot by an employee of the Legislature and submitted for personal reimbursement:

Chart 32– Office Depot Purchases

Item	Quantity	Total Cost
2" Gold Seals	36	$ 164.54
Adhesive Spray	1	$ 16.49
Audio Tapes	5	$ 14.99
Batteries	1	$ 3.99
Binders	89	$ 542.23
Portfolio	1	$ 13.49
Command Hooks	1	$ 9.29
Desk Pad	1	$ 8.99
Envelopes, boxes	2	$ 44.57
Foam Board	1	$ 18.99
Golf Pencils, 144 ct	1	$ 10.99
Highlighters, 12 pack	2	$ 11.98
Index Cards	1	$ 2.00
Label Tape	5	$ 186.95

Laminating Sheets	10	$ 6.97
Photo Frame	1	$ 3.09
Plastic Dividers	15	$ 56.85
Plastic Sheet Protectors	4	$ 27.16
Printer	1	$ 93.99
Push Pins	1	$ 3.95
Tape	1	$ 2.32
Toner Cartridges	5	$ 184.95
USB Adapters	2	$ 83.98
USB Drives	10	$ 283.90
Total		$ 1,796.65

When meeting with the Audit, the Legislature explained that some of these items were not available for purchase through the OfficeMax contract, and specifically cited the 2" Gold Seals, which are used for Legislative Proclamations. However, Audit was able to locate all of the above items as items available for purchase on the OfficeMax contract, excluding the printer and toner cartridges which were discussed in Finding 9.

WE RECOMMEND that the Legislature utilize the existing office supply contract when making future purchases.

10) Questionable Expenses

Throughout the course of our review we noted the following expenses that may be improper:

- **Food Purchased By Employees** – Food purchases totaling $467.39 was submitted for reimbursement without documenting the business purpose.

- **Cake Purchases** – Six quarter sheet cakes were purchased without documentation of the business purpose. The cake purchases totaled $147.97. Two of the cakes had the message "Good Luck." A third cake had the message "Happy Birthday." The message wasn't listed for three of the cakes.

- **Plastic Utensils and Paper Product Purchases** – A total of $237.91 of napkins, plates, plastic utensils, and tablecloths were by employees and through OfficeMax without documenting the business purpose.

- **Flower Arrangement** – A flower arrangement was purchased for the funeral of the father of a Legislature staff member at a total cost of $107 ($100 for the arrangement plus $7 for shipping).

All the items above were purchased and paid through reimbursement (see finding 4).

WE RECOMMEND that all such miscellaneous purchases be documented to support the intended business nature of the expense.

Exit Conference

On April 28, 2014 the Division of Audit met with Representatives from both the Caucuses of the Erie County Legislature to discuss this report. During the meeting the Legislature was in general agreement with our findings.

Two IRMs were issued during the course of this review, one of which was in regards to Time Warner bills being paid while an office was not inhabitable. During the Exit, the Legislature provided our office with evidence that Time Warner would be giving a credit to the Legislature for the total amount paid over that period. With regards to the second IRM regarding a copier lease with GE Capital, a Legislature staff informed us that they are in the process of canceling the contract with a onetime buy out of the lease for $124. Evidence of this purchase will be provided to the Division of Audit once complete.

During the Exit Conference, some concerns were addressed regarding the severity of some of these issues and the verbiage which was used in defining them. Due to this, verbiage in some instances within this report has been changed to more accurately reflect the issues found.

We wish to thank the Members of the Erie County Legislature and the Legislature's Staff for their time and assistance throughout this review.

ERIE COUNTY COMPTROLLER'S OFFICE

cc: Hon. Mark C. Poloncarz, County Executive
Erie County Fiscal Stability Authority

Appendix I – Erie County Legislators

	2009	2010	2011
Chairperson	Lynn Marinelli	Barbara Miller-Williams	Barbara Miller-Williams
Majority Leader	Maria Whyte	Maria Whyte	Maria Whyte
Minority Leader	John Mills	John Mills	John Mills
Legislator	Betty Jean Grant	Christina Bove	Christina Bove
Legislator	Michelle Ianello	Dino Fudoli	Dino Fudoli
Legislator	Timothy Kennedy	Betty Jean Grant	Betty Jean Grant
Legislator	Kathy Konst	Kevin Hardwick	Kevin Hardwick
Legislator	Daniel Kozub	Timothy Kennedy	Daniel Kozub
Legislator	Thomas Loughran	Daniel Kozub	Thomas Loughran
Legislator	Thomas Mazur	Thomas Loughran	Lynn Marinelli
Legislator	Barbara Miller-Williams	Lynn Marinelli	Thomas Mazur
Legislator	Edward Rath, III	Thomas Mazur	Lynne Dixon
Legislator	Diane Terranova	Lynne Dixon	Edward Rath, III
Legislator	Raymond Walter	Edward Rath, III	Raymond Walter
Legislator	Timothy Wroblewski	Raymond Walter	Timothy Whalen
Legislator	Bob Reynolds	Timothy Whalen	
Clerk of the Legislature	Robert Graber	Robert Graber	Robert Graber
Majority Chief of Staff		John Davis	John Davis
Minority Chief of Staff		Bryan Fiume	Bryan Fiume

	2012	2013
Chairperson	Betty Jean Grant	Betty Jean Grant
Majority Leader	Thomas Mazur	Thomas Mazur
Minority Leader	John Mills	John Mills
Legislator	Kevin Hardwick	Kevin Hardwick
Legislator	Timothy Hogues	Timothy Hogues
Legislator	Joseph Lorigo	Joseph Lorigo
Legislator	Thomas Loughran	Thomas Loughran
Legislator	Lynn Marinelli	Lynn Marinelli
Legislator	Terrence McCracken	Terrence McCracken
Legislator	Lynne Dixon	Lynne Dixon
Legislator	Edward Rath, III	Edward Rath, III
Clerk of the Legislature	Robert Graber	Robert Graber
Majority Chief of Staff	John Davis	Jeremy Zellner
Majority Chief of Staff	Jeremy Zellner	
Minority Chief of Staff	Bryan Fiume	Bryan Fiume

Appendix II – Legislative Staff Reimbursements

#	Date	Description	Amount
1	06/05/2009	Printer HP OJ Pro 8000	$ 93.99
		Photo Frame	$ 3.09
		Walgreens - Photo Repro.	$ 2.99
		USPS - postage	$ 2.34
		USPS - postage	$ 4.19
		USPS - postage	$ 8.40
		USPS - postage	$ 84.00
		Envelopes, Clasp #105	$ 18.58
		Office Depot - Binders	$ 46.90
		Laminating Sheets	$ 6.97
		Tape 2x22 yards	$ 2.32
	Total		$ 273.77

#	Date	Description	Amount
2	07/02/2009	USPS - postage	$ 7.36
		USPS - postage	$ 5.49
		USPS - postage	$ 2.78
		USPS - postage	$ 44.00
		Envelopes, 12x15	$ 25.99
		Tape, Blk on Wht, 2 pk	$ 38.99
		Ink, HP 75XL HY CLR	$ 40.99
		Crg, Ink, Blk 51645A	$ 35.99
		Drive, USB, 32 GB	$ 89.99
	Total		$ 291.58

#	Date	Description	Amount
3	09/25/2009	Postage	$ 1.05
		Postage	$ 81.84
		Postage	$ 123.90
		Postage	$ 54.60
		Binders	$ 69.84
	Total		$ 331.23

#	Date	Description	Amount
4	04/16/2010	Audio Tapes	$ 14.99
		Push Pins	$ 3.95
		Batteries	$ 3.99
		Command Hooks	$ 9.29
		Postage	$ 88.00
		12pk Highlighters	$ 11.98
	Total		$ 132.20

#	Date	Description	Amount
5	04/23/2010	Puffs Family	$ 3.96
		Paper Towels	$ 10.00
		USB Drive	$ 24.99
		Postage - Burbank CA	$ 18.30
		Binders	$ 35.94
		Napkins	$ 1.97
		Paper Clips	$ 1.44
		Invisible Tape	$ 5.44
	Total		$ 102.04

#	Date	Description	Amount
6	06/11/2010	Postage	$ 1.22
		Postage	$ 1.22
		Postage	$ 2.44
		Letterhead Paper	$ 80.19
		Binders	$ 55.98
		Binders	$ 15.96
		Label Tape Black on White 2pk	$ 73.98
		HP 940XL Black	$ 107.97
		Seals 2" 44 pk	$ 13.77
	Total		$ 352.73

#	Date	Description	Amount
7	07/23/2010	Home Rule Mailing Priority Overnight	$ 47.20
		Binders	$ 61.87
		Label Tape Black on White 2pk	$ 73.98
	Total		$ 183.05

#	Date	Description	Amount
8	02/04/2011	USB Drive	$ 9.99
		2" Seals	$ 27.54
		2" Seals	$ 32.13
		Computer Desk Pad	$ 8.99
	Total		$ 78.65

#	Date	Description	Amount
9	03/11/2011	Postage	$ 1.83
		Binders	$ 29.98
		Black Executive Prs Ltr	$ 13.49
		Toshiba Toner DP80/85F Black	$ 145.99
	Total		$ 191.29

#	Date	Description	Amount
10	07/01/2011	Jump Drive	$ 19.99
		Jump Drive	$ 19.99
		Postage	$ 2.78
		Postage	$ 1.22
		Postage	$ 1.56
		Postage	$ 2.78
		Postage	$ 3.76
		Binders	$ 28.99
		Adhesive Spray	$ 16.49
		Foam Board	$ 18.99
	Total		$ 116.55

#	Date	Description	Amount
11	02/17/2012	Libmab Brush	$ 11.98
		Charmin Ultra 24 pk	$ 34.18
		Scott Paper Towels 8 pk	$ 21.58
		Ajax Dish Liquid	$ 0.77
		Windex Glass Cleaner	$ 7.18
		Unknown Supplies (Full Receipt Not Included)	$ 118.70
		USB Adapter	$ 41.99
		Binder	$ 41.94
		Binder	$ 20.97
	Total		$ 299.29

#	Date	Description	Amount
		Coffee Filters	$ 2.99
		Sierra Mist 2 Liter	$ 1.77
		Pepsi 2 Liter	$ 5.21
		Lay's Potato Chips	$ 17.16
		Full Sheet Cake	$ 85.00
		1/4 Sheet Cake	$ 35.00
		1/2 Sheet Cake	$ 35.00
		Sherbet 32 oz	$ 5.98
		Chip Dip	$ 2.00
		Potato Chips	$ 4.00
		Sprite 2 liter	$ 2.70
		Hawaiian Punch 128 oz	$ 5.00
		1/4 Sheet Cake	$ 16.99
		Orange Juice	$ 7.98
	04/13/2012	Wrist Monitor	$ 39.99
12		Badge - "Welcome Home Veterans Day"	$ 30.00
		Frames	$ 29.98
		30 x 46 WINS	$ 37.48
		Plastic Pot	$ 29.98
		8 lb Soil	$ 1.69
		Plastic Forks	$ 1.00
		Paper Plates	$ 1.00
		Paper Plates	$ 5.00
		Napkins	$ 2.00
		Plastic Spoons	$ 2.00
		Plastic Forks	$ 2.00
		Tablecover Red	$ 4.00
		Paper Plates	$ 2.50
		2" Seals	$ 55.08
		4 Tier Shoe Rack (District Office)	$ 21.98
	Total		$ 492.46

#	Date	Description	Amount
13	09/07/2012	Paper Towels - Single	$ 4.00
		Toilet Tissue - 4 Roll	$ 24.00
		Box Fans	$ 35.98
		Lipton Tea 128 fl oz	$ 5.00
		Flash Card	$ 39.99
		1/4 Sheet Cake	$ 30.00
		2 L Sprite	$ 1.55
		2 L Pepsi	$ 1.55
		Potato Chips	$ 2.00
		Cheese Tray	$ 39.99
		1/4 Sheet Cake	$ 50.00
		1/4 Sheet Cake	$ 30.00
		Cheese & Fruit Tray	$ 29.99
		Postage	$ 3.00
		Stamps and Mints	$ 4.80
		Plastic Sheet Protectors (24)	$ 27.16
		Binders	$ 67.98
		Plastic Forks	$ 1.69
		Paper Plates	$ 3.79
		Napkins	$ 1.19
		Plastic Cups	$ 2.50
		Plastic Plates	$ 5.00
		Plastic Forks	$ 2.00
		8 x 10 Frames	$ 103.92
	Total		$ 517.08

#	Date	Description	Amount
14	4/12/2013	HD Card	$ 39.99
		Camcorder	$ 299.99
		USB Drive	$ 14.95
		USB Drive	$ 38.97
		Pepsi	$ 5.15
		Cheese & Fruit Tray	$ 49.99
		Cookie Tray	$ 14.99
		Cheese & Fruit Tray	$ 49.99
		Pepsi	$ 3.44
		Sierra Mist	$ 1.72
		Lay's Potato Chips	$ 7.50
		Dr Pepper	$ 1.72
		Chocolate Chip Cookies	$ 3.00
		Cookie Bowl	$ 3.00
		1/4 Sheet Cake	$ 17.99
		Fruit Tray	$ 35.99
		Cheese Tray	$ 49.99
		Funeral Arrangement	$ 100.00
		Shipping on USB Drive	$ 1.64
		Delivery Charge	$ 7.00
		Postage	$ 0.45
		Postage	$ 0.45
		Postage	$ 5.45
		Postage	$ 0.45
		Binder	$ 65.88
		Napkins	$ 1.19
		Plates 48 ct	$ 5.00
		2" Seals	$ 4.59
	Total		$ 830.47

#	Date	Description	Amount
15	8/23/2013	Pepsi	$ 3.43
		Sierra Mist	$ 1.72
		Tops Chips	$ 4.00
		Cheese & Fruit Tray	$ 29.99
		1/4 Sheet Cake	$ 17.99
		Pepsi	$ 3.90
		Chips	$ 4.00
		Catering Order	$ 66.99
		Internet Photo Order	$ 4.34
		Internet Photo Order	$ 4.34
		Postage	$ 3.44
		Postage	$ 3.44
		Postage	$ 27.60
		Postage	$ 46.00
		Postage	$ 46.00
		Postage	$ 92.00
		Plastic Dividers	$ 56.85
		Napkins	$ 2.59
		2" Seals	$ 13.07
		2" Seals	$ 18.36
		Index 4x6 Ruled Asst	$ 2.00
		Golf Pencils 144 ct	$ 10.99
	Total		$ 463.04

Reimbursement	Amount
1	$ 273.77
2	$ 291.58
3	$ 331.23
4	$ 132.20
5	$ 102.04
6	$ 352.73
7	$ 183.05
8	$ 78.65
9	$ 191.29
10	$ 116.55
11	$ 299.29
12	$ 492.46
13	$ 517.08
14	$ 830.47
15	$ 463.04
Total Reimbursement	$ 4,655.43