LEGISLATIVE OVERSIGHT COMMISSION ON EDUCATION ACCOUNTABILITY

Senate Finance Committee Room
May 16, 2016

COMMUNITY AND TECHNICAL COLLEGE SYSTEM OF WV

West Virginia Higher Education Policy Commission

West Virginia Higher Education Policy Commission

Report to the Legislative Oversight Commission on Education Accountability

May 16, 2016

Higher Education System Facilities Capital Development Plan

(§18B-19-3)

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Chair

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Chancellor

Leading the Way: *Access. Success. Impact.*

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MEMORANDUM

TO: Legislative Oversight Commission on Education Accountability

FROM: Paul Hill

DATE: May 16, 2016

RE: Higher Education System Facilities Capital Development Plan

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During the 2010 Legislative Session, a bill was enacted that set forth new requirements for the development and maintenance of higher education facilities. The legislation required that the Commission and Council develop new legislative rules regarding capital project management and West Virginia Code §18B-19-3 required the creation of system facilities plans based upon those rules. During the summer of 2012, an initial draft of the rule was developed. In December 2012, Commission staff formed a committee of institutional representatives to provide input as it was refined. In December 2013, Series 12, Legislative Rule, Capital Project Management, was presented to the Commission for approval and the rule was subsequently forwarded to the Legislative Oversight Commission on Education Accountability (LOCEA). Although the rule was not immediately placed on the LOCEA agenda, it completed the legislative rule making process during the 2015 Legislative Session. The Commission approved the System Facilities Capital Development Plan on April 1, 2016.

While the Commission staff were waiting for the rule to be finalized, a contract was entered into with Sightlines to provide baseline facilities condition and deferred maintenance information for Commission institutions. The information from this study informed the creation of the system facilities plan provided on the following pages. The purpose of the plan is to ensure that higher education facilities align with and support the strategic goals of the State, Commission and institutions. It is the intention of the plan to be responsive to student needs in the evolving higher education market. The plan aligns the capital planning and strategic planning processes. Concepts described in Strategic Financial Analysis for Higher Education (Seventh Edition), jointly developed and sponsored by Prager, Sealy & Co., LLC, KPMG, LLP and BearingPoint., Inc. were used to develop the structure for this alignment.

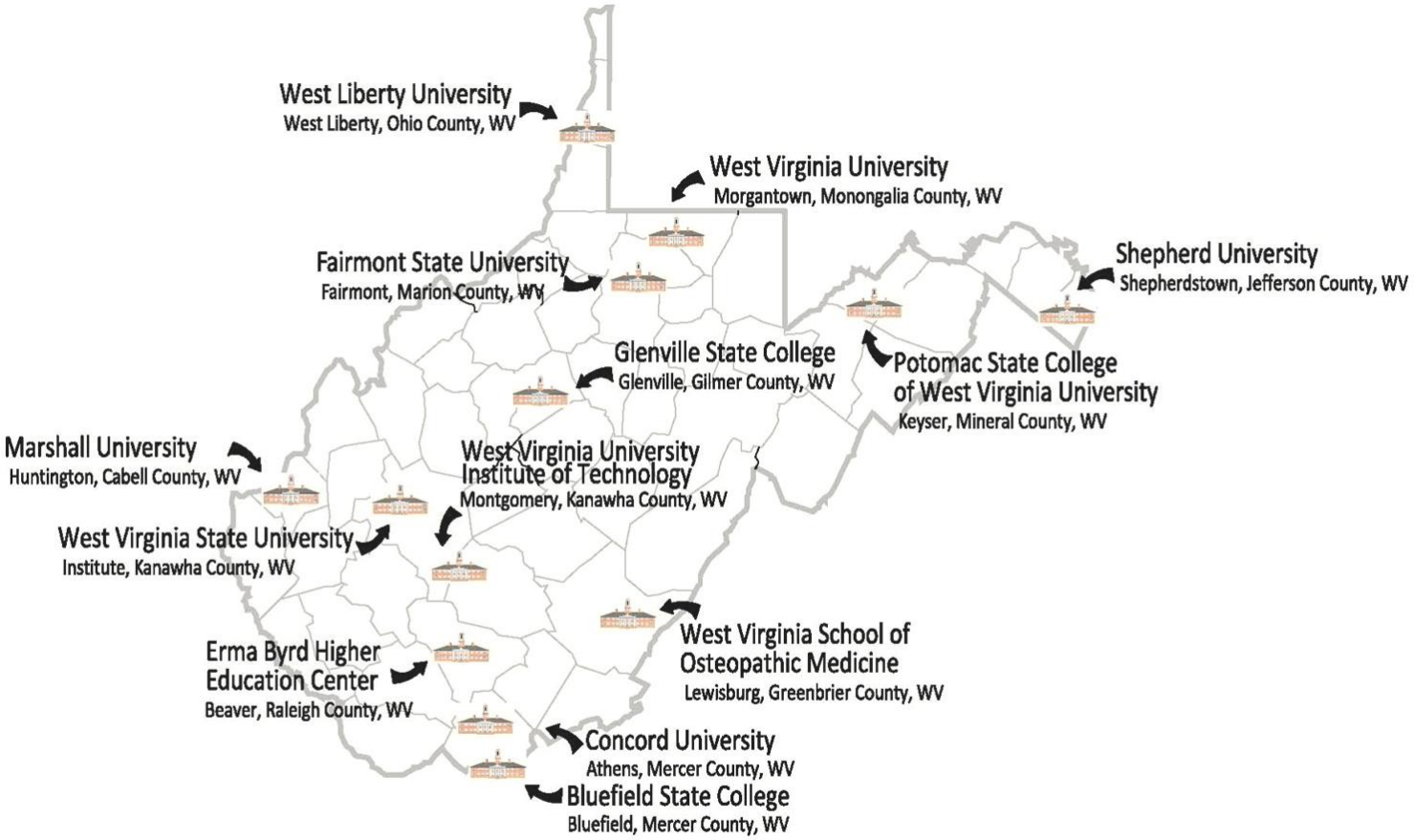
The plan also identifies the data to be used by the Higher Education Facilities Information System

(HEFIS). Many of these data are currently available from the reports submitted by institutions to the Board of Risk and Insurance Management and Commission resources. It will also be necessary for institutions to submit additional data from their Ellucian Banner systems. The framework for deferred maintenance estimations was derived from the NASA Deferred Maintenance Parametric Estimating Guide. The data for the HEFIS system will need to be retained in a database.

Therefore, the necessary components required for compliance with West Virginia Code §18B-19 provide a natural sequence of (A) rule development, (B) information gathering, (C) plan development and, finally, (D) data system development for long-term tracking. Commission staff have now worked through the first top components to present the System Facilities Plan and will use this to complete the final component, HEFIS database development.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SYSTEM FACILITIES PLAN
March 2016


West Liberty University
West Liberty, Ohio County, WV
West Virginia University
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Fairmont State University
Fairmont, Marion County, WV
Shepherd University
Shepherdstown, Jefferson County, WV
Glenville State College
Glenville, Gilmer County, WV
Potomac State College
of West Virginia University
Keyser, Mineral County, WV
Marshall University
Huntington, Cabell County, WV
West Virginia University
Institute of Technology
Montgomery, Kanawha County, WV
West Virginia State University
Institute, Kanawha County, WV
West Virginia School of
Osteopathic Medicine
Lewisburg, Greenbrier County, WV
Erma Byrd Higher
Education Center
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Athens, Mercer County, WV
Bluefield State College
Bluefield, Mercer County, WV

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Introduction

The West Virginia Higher Education Policy Commission System Facilities Plan is one of the public higher education facilities planning and administration components required by West Virginia Code §18B-19-1. In addition to this plan, the Code requires the Commission to update Series 12, Legislative Rule, Capital Project Management, and create the Higher Education Facilities Information System (HEFIS). It also requires the colleges and universities to complete institutional facility master plans in conformance with the System Facilities Plan. The System Facilities Plan, Legislative Rule, HEFIS and the institutional facility master plans form the oversight structure for the higher education facilities.

The West Virginia Higher Education Policy Commission

The West Virginia Higher Education Policy Commission (Commission) develops and oversees a public policy agenda for West Virginia's four-year colleges and universities. Comprised of a 10-member board, the Commission works with institutions to accomplish their missions and carry out state objectives. A source of support for institutions and students, the Commission's work includes academic affairs, administrative services, finance and facilities, financial aid, health sciences, human resources, legal services, policy and planning, science and research, and student affairs.

Institutions

Bluefield State College

Mission: "The mission of Bluefield State College is to provide students an affordable, accessible opportunity for public higher education. A historically black institution, Bluefield State College prepares students for diverse

professions, graduate study, informed citizenship, community involvement, and public service in an ever-changing global society. The College demonstrates its commitment to the student's intellectual, personal, ethical, and cultural development by providing a dedicated faculty and staff, quality educational programs, and strong student support services in a nurturing environment."

Concord University

Mission: "The mission of Concord University is to provide quality, liberal arts based education, to foster scholarly activities, and to serve the regional community. Concord University provides rigorous programs, primarily at the baccalaureate level, which prepare students to pursue various graduate study and career options and to assume leadership and professional roles in a multicultural society. In keeping with its tradition of service to the region, the University will offer a limited number of carefully selected graduate degrees. While we incorporate a variety of educational methodologies/technologies, our size and the caring dedication of our faculty, staff and administration are the principal assurances of a quality educational opportunity at Concord University."

Fairmont State University

Mission: "The Mission of Fairmont State University is to provide opportunities for individuals to achieve their professional and personal goals and discover roles for responsible citizenship that promote the common good."

Glenville State College

Mission: “Glenville State College provides a tradition of high quality education through innovation in the design, delivery, and evaluation of programs and services, workforce development, and comprehensive student services; a community of active learners dedicated to lifelong learning, effective teaching, applied scholarship, creative activities, and service; leadership that promotes excellence in learning, teaching, cultural vitality, and economic development in a global community.”

Marshall University

Mission: “Marshall University is a multi-campus public university providing innovative undergraduate and graduate education that contributes to the development of society and the individual. The University actively facilitates learning through the preservation, discovery, synthesis, and dissemination of knowledge.”

Potomac State College of West Virginia University

Mission: “As an integrated division of West Virginia University, Potomac State College provides a broad range of high quality associate degree programs as well as baccalaureate degree programs at a reasonable cost with an historic focus on teaching and learning and a commitment to providing access to a better life for all West Virginians.”

Shepherd University

Mission: “Shepherd University, a West Virginia public liberal arts university, is a diverse community of learners and a gateway to the world of opportunities and ideas. We are the regional center for academic, cultural, and economic opportunity. Our mission of service succeeds because we are dedicated to our core values: learning, engagement, integrity, accessibility, and community.”

West Liberty University

Mission: “To provide our students the opportunity for a high quality undergraduate, graduate, and professional education.”

West Virginia School of Osteopathic Medicine

Mission: “The mission of the West Virginia School of Osteopathic Medicine (WVSOM) is to educate students from diverse backgrounds as lifelong learners in osteopathic medicine and complementary health related programs; to advance scientific knowledge through academic, clinical and basic science research; and to promote patient-centered, evidence based medicine. WVSOM is dedicated to serve, first and foremost, the state of West Virginia and the special health care needs of its residents, emphasizing primary care in rural areas.”

West Virginia State University

Mission: “Founded in 1891, West Virginia State University is a public, land-grant, historically black university, which has evolved into a fully accessible, racially integrated, and multi-generational institution. The University, ‘a living laboratory of human relations,’ is a community of students, staff, and faculty committed to academic growth, service, and preservation of the racial and cultural diversity of the institution. Its mission is to meet higher education and economic development needs of the state and region through innovative teaching and applied research.”

West Virginia University

Mission: “As a land-grant institution in the 21st century, West Virginia University will deliver high-quality education, excel in discovery and innovation, model a culture of diversity and inclusion, promote health and vitality, and build pathways for the exchange of knowledge and opportunity between the state, the nation, and the world.”

West Virginia University Institute of Technology

Mission: “West Virginia University Institute of Technology provides an accessible and supportive environment in which students are guided to be active and contributing members of society by fostering intellectual and personal growth through comprehensive educational experiences.”

Higher Education Collaborative – Erma Byrd Higher Education Center

The Erma Byrd Center for Public Higher Education provides students with the convenience of taking a variety of college classes offered by different state colleges and universities in one location serving the Beckley and surrounding areas in southern West Virginia.

Legislative Intent

West Virginia Code §18B-19-1 describes the intent of the legislation passed to address the planning, management and funding of public higher education facilities:

1. Dedicated state funding sources shall be designated to finance construction and renovation of educational and general facilities at state institutions of higher education from time to time;

2. Capital project lists submitted by institutions to the commission or council, as appropriate, and capital project lists submitted by the commission and council to the state budget office, Legislative Oversight Commission on Education Accountability, and Joint Committee on Government and Finance for consideration for state funding shall be reasonable requests that align with state and system goals, objectives and priorities and ones which reasonably could be funded if approved;

3. As the Legislature increases its responsibility for financing new educational and general facilities and major renovations, the commission, council and institutions shall ensure that sufficient capital revenues are available for maintenance and that the facilities are maintained adequately;

Planning, management and funding of public higher education facilities.

4. Ongoing state funding shall be dedicated to supplement capital fees available for maintenance at community and technical colleges; and

5. Once a system capital plan is in place, institutions shall set aside adequate funding annually to ensure that ongoing facilities maintenance needs are met.

Strategic Approach

Over the next ten years, the West Virginia Higher Education Policy Commission will need to expend $500 million to maintain the current renovation backlog level. It is estimated that approximately $230 million will be available from student capital fees after payment of debt service over the next ten years to fund capital improvements. It does not appear that the traditional sources of revenue will be sufficient to fund the remaining capital expenditure need. It is likely that state appropriations will not increase significantly. Because of market constraints, colleges and universities have limited capacity to substantially raise tuition and fees. Future bond issues will not be funded from lottery revenues due to competition from other states for gambling dollars.

To determine how to finance the anticipated expenditures, a review of the overall higher education market, potential enrollment strategies, student debt, and institutional characteristics is required. Using this information a strategic facilities analysis may be performed for each institution. From this analysis the System Facilities Plan may be developed.

Higher Education Market

The higher education industry has changed drastically during the first years of this century. More students are nontraditional. Instead of attending college immediately after high school, the nontraditional student may find a job and start a family. Students who do enter college immediately after high school often work part-time or full-time jobs to pay tuition and living expenses. Online courses allow these students more flexibility to study when time is available.

"The Higher Education Policy Commission will need $500 million over the next 10 years to maintain the current renovation backlog level."

"Population trends show West Virginia to lose approximately 19,500 people, or 1.05% of the current population, between 2010 and 2030."

International education has grown, with more students studying abroad or enrolling in massively open online courses. Many institutions have recognized that a strong market exists for the education of students from other countries.

The migration of rural populations to urban centers is a worldwide trend. Because West Virginia is a primarily rural state, it is not unaffected by this trend. According to Population Trends in West Virginia through 2030, the state will lose approximately 19,500 people (or 1.05 percent) between 2010 and 2030. More significant population decreases in some areas of the state will be offset by areas with no change or growth.

Potential Enrollment Strategies

The Commission's institutions enrollments decreased 4.4 percent from the fall of 2010 to the fall of 2014. In light of the above mentioned higher education market changes and West Virginia's projected population decline, enrollment will continue to decline unless new strategies are employed.

"…enrollment will continue to decline unless new strategies are employed."

The strategy to increase enrollments of out-of-state students has been utilized by some West Virginia public institutions for some time; however more students are going to college in their home states. This strategy may not be effective for those institutions that are not close to the State's borders. The numbers of high school graduates in Maryland, Pennsylvania, Kentucky and Ohio are projected to decrease through 2030. Virginia is expected to have a slight increase in the number of high school graduates. Several other strategies are worthy of consideration:

- Increasing the international student population may be a viable strategy to increase capacity utilization and revenues. Tuition charges must reflect the additional costs associated with the accommodation of international students.
- If the colleges and universities retain more students, their enrollments will increase given that other enrollment metrics remain constant. It is much cheaper to retain an enrolled student than it is to recruit a replacement. Most of the Commission institutions have significant capacity for change in this area.

- Growth opportunities may not be available for some institutions. As a result, reductions in facilities may be necessary to maintain financial sustainability.

If institutions plan to increase enrollments, they must commit to a viable strategy. The chosen strategy will determine an institution's needed physical capacity.

"The chosen strategy will determine an institution's needed physical capacity."

Student Debt

The decline in governmental support over the past several decades has created a change in the fundamental nature of public higher education. Instead of choosing majors that interest them, students increasingly select majors that will ensure a postgraduate income sufficient to repay loans. When tuition was low and financial aid was more readily available, giving low performing students a chance at higher education was an acceptable risk for all parties. With increasing student debt loads, the enrollment of and extension of loans to those students who have little chance to graduate and repay their debt must be reconsidered. Institutions must fulfill their purpose to promote an enlightened population and economic growth; however, they must take reasonable care not to cause more harm than the good that they do.

Funding Strategies

"Increase student enrollment and number of students per class, initiate central scheduling, demolish unnecessary existing structures, redirect appropriated funds from other agencies, reduce or eliminate operational funding for programs that are not mission centric, and increase funding for deferred maintenance."

Increase Student Enrollments. The excess capacity at some institutions can be reduced by enrolling more international students. The incremental revenues realized from the improvements in capacity utilization could be used to fund deferred maintenance projects.

Increase the Number of Students per Class. By increasing the average class size to levels that maintain the quality of academic instruction, institutions can reduce the number of classrooms and faculty required to serve their students. It may be possible to demolish existing buildings that need significant renovations if enough classrooms can be eliminated.

Initiate Central Scheduling. Often classrooms or entire buildings will be assigned to academic departments. By instituting a central scheduling function, classrooms can be assigned more efficiently. This gain in efficiency could reduce the number of classrooms needed to meet student needs.

Demolish Unnecessary Existing Structures. The majority of the institutions have excess physical capacity. The annual deferred maintenance funding requirements can be reduced by eliminating some buildings that require significant renovations. In addition, operating costs can be reduced by eliminating the utility and maintenance costs associated with these structures.

Redirect Appropriated Funds from other Agencies. Allocations of Appropriations to state agencies should be based upon the agencies contributions to economic and social development. Each agency should identify the value that it provides the State in exchange for tax dollars. Those programs that are a detriment to the state or that provide no value should be identified and eliminated or cut. Higher Education makes significant contributions to economic and social development and should be a top funding priority.

Reduce or Eliminate Operational Funding for Programs that are not Mission Centric and Increase Funding for Deferred Maintenance. Capital support for programs that are mission centric is needed to ensure financial sustainability. If capital fees were increased to adequate levels without any corresponding reductions in other fees, total tuition and fees may exceed market values.

System Facilities Planning Process

An institution's strategic plan must be grounded in reality. The condition and size of facilities as well as the efficiency and efficacy of its processes will contribute to the success or failure of the plan. Before major facilities investments are made, institutions must demonstrate that they have the capabilities necessary to succeed.

Key Performance Indicators (KPIs) measure facilities condition and utilization as well as brand and financial strength. The following are recommended KPIs for Commission institutions:

Facilities
Strategic Value
User Density
Residence Hall Utilization
Renovation Age by Building

"Key Performance Indicators (KPI) will measure the facilities condition and utilization, as well as brand and financial strength."

Brand

Headcount and Full-Time Equivalent (FTE) Enrollment Trends
Retention Rates
Graduation Rates
Household Income
Service Area Population Change
Student Credit Hours Taught by Full-Time Faculty
Faculty and Staff Salaries
Faculty Education Level
Minority Faculty as a Percentage of Total Faculty
Annual Development Collections
Admissions Statistics

Financial

Composite Financial Index
Cost per Full-Time Equivalent Student
Student/Faculty and Student/Staff Ratios
Resident Students as a Percentage of Enrollments
Student Loan Default Rate

"Cutting edge approaches to increase retention and graduation rates will need to be implemented."

From a strictly financial perspective, it has been most advantageous for institutions to attract well-prepared students who can enhance academic quality. With well-prepared students, a college or university can attract high quality faculty. On average, institutions that can attract well-prepared students will have better retention and graduation rates; higher alumni and donor contributions and tuition levels; better brands; and better financial health.

The attainment of KPI statistics that result in optimal financial profiles may not coincide with the State's needs. If West Virginia is going to increase the proportion of college graduates within its population, more students who require additional academic services will need to become college graduates. If only well-prepared students are enrolled in colleges and universities, the proportion of college graduates will decline.

Institutions that serve students that need additional academic services will need to adopt innovative models to ensure financial sustainability. They cannot depend upon increases in tuition and fee charges to maintain their financial

health. Cutting edge approaches to increase retention and graduation rates will need to be implemented.

For the purposes of this plan, strategic value is defined as the degree to which an asset or action is important or useful in relation to the institution's mission. For public colleges and universities, the strategic value to the State must also be considered.

Because optimal KPI statistics will vary by institution, only those statistics that will drive the ultimate success of all state public colleges and universities will be addressed in the funding formula.

Facilities
Strategic Value
Renovation Age by Building
User Density

Brand
Headcount and Full-Time Equivalent (FTE) Enrollment Trends
Retention Rates
Graduation Rates

Financial
Composite Financial index
Cost per Full-Time Equivalent Student
Student/Faculty and Student/Staff Ratios
Student Loan Default Rate

Institutions' overall management strength should be analyzed. An engaged and responsible Board of Governors is critical for success. In addition, the strategic plan must be grounded in reality and achievable. The colleges and universities must also recognize that technology is a strategic asset that must be cultivated to maintain a competitive advantage. The budgets must be sufficiently detailed but devoid of unnecessary complexity to permit appropriate financial analysis. The development process for the budgets must align it with the strategic plans and include participants from a broad cross section of the campus communities. The level of management strength may be evaluated through the internal audit process.

The KPIs must be considered in light of the unique circumstances facing each college or university. They can be used to obtain an overall view of an institution's capabilities. This view permits the Commission to determine the appropriate level of investment for each institution.

Strategic Facility Analysis

An analysis of the institutions' buildings must be conducted to complete the system facilities plan. It is unlikely that most of the colleges and universities will be able to remain financially sustainable unless their facilities are aligned with their strategic plans and operational processes. The Commission cannot count on additional funds from the state or increased enrollments for all institutions to fund the anticipated $500 million backlog of facility needs.

An institution's assets and processes support its ability to provide educational and other services. To maintain viability, the assets and processes that are chosen must align with an institution's strategic plan. For a public institution the challenge is to deliver a high level of quality while operating efficiently and as close to full capacity as possible. If a high level of quality is achieved, an optimal level of revenue may be obtained from state and federal governments, donors and students.

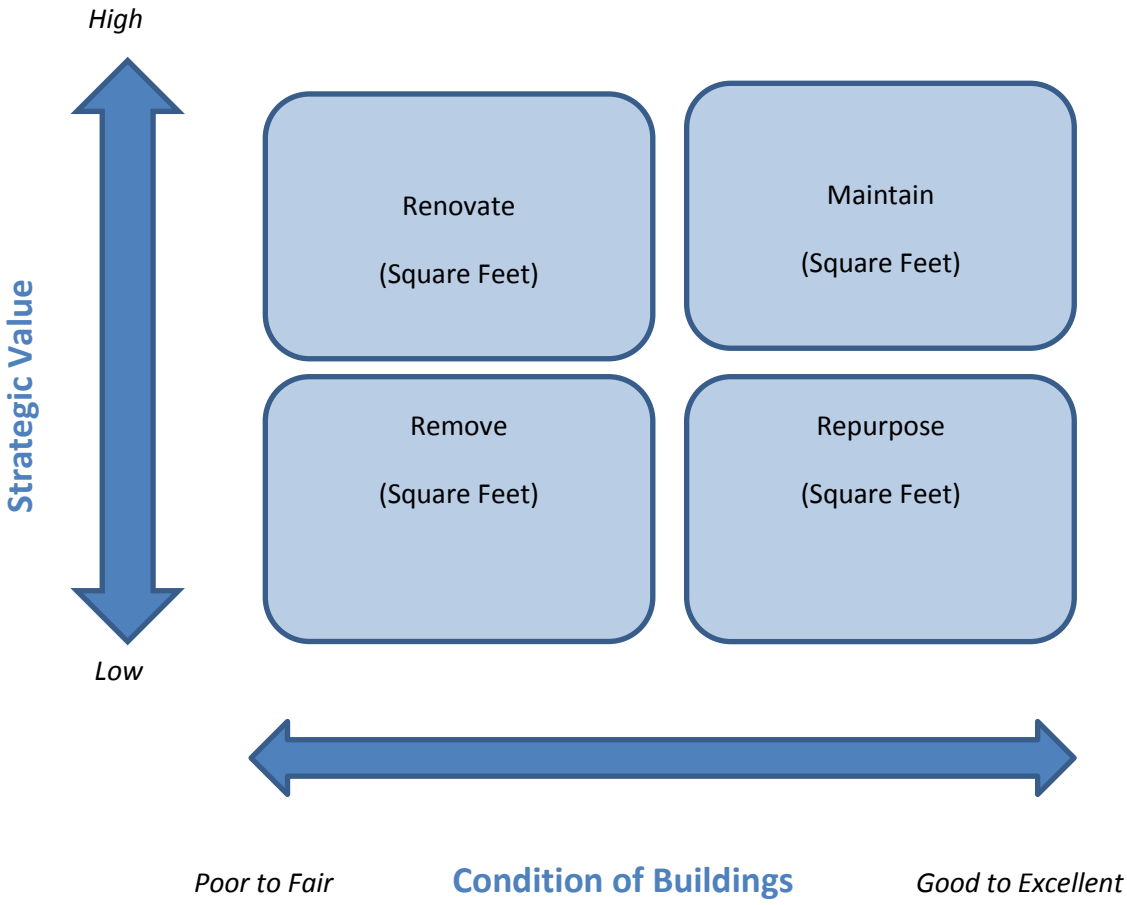
Decision matrices may be employed to determine alignment of assets and processes with the institutions' strategic plans. The first two matrices are derived from facilities data and institutional strategic plans. The third, fourth and fifth matrices use enrollment data as well as information collected through the strategic planning and budgeting processes. Concepts described in Strategic Financial Analysis for Higher Education (Seventh Edition), jointly developed and sponsored by Prager, Sealy & Co., LLC, KPMG, LLP and BearingPoint., Inc. were used to develop these matrices.

The first matrix considers the relationship between strategic value and the condition of a building or infrastructure asset. Structures of high strategic value that are in good condition need to be maintained. Those structures that are in good condition but are not of high strategic value should be repurposed. Buildings of high strategic value and poor condition should be renovated. Finally, facilities of limited strategic value and poor condition should be considered for demolition.

"The development process for the budgets must align with the strategic plans..."

"The Commission cannot count on additional funds from the state or increased enrollments for all institutions to fund the anticipated $500 million backlog of facility needs."

For buildings, the alignment of programs to the institutional mission determines their strategic value. Strategic plan and budgeting processes should be aligned to identify the relative importance of programs. Enrollment data may also be reviewed to support a program's relative importance.



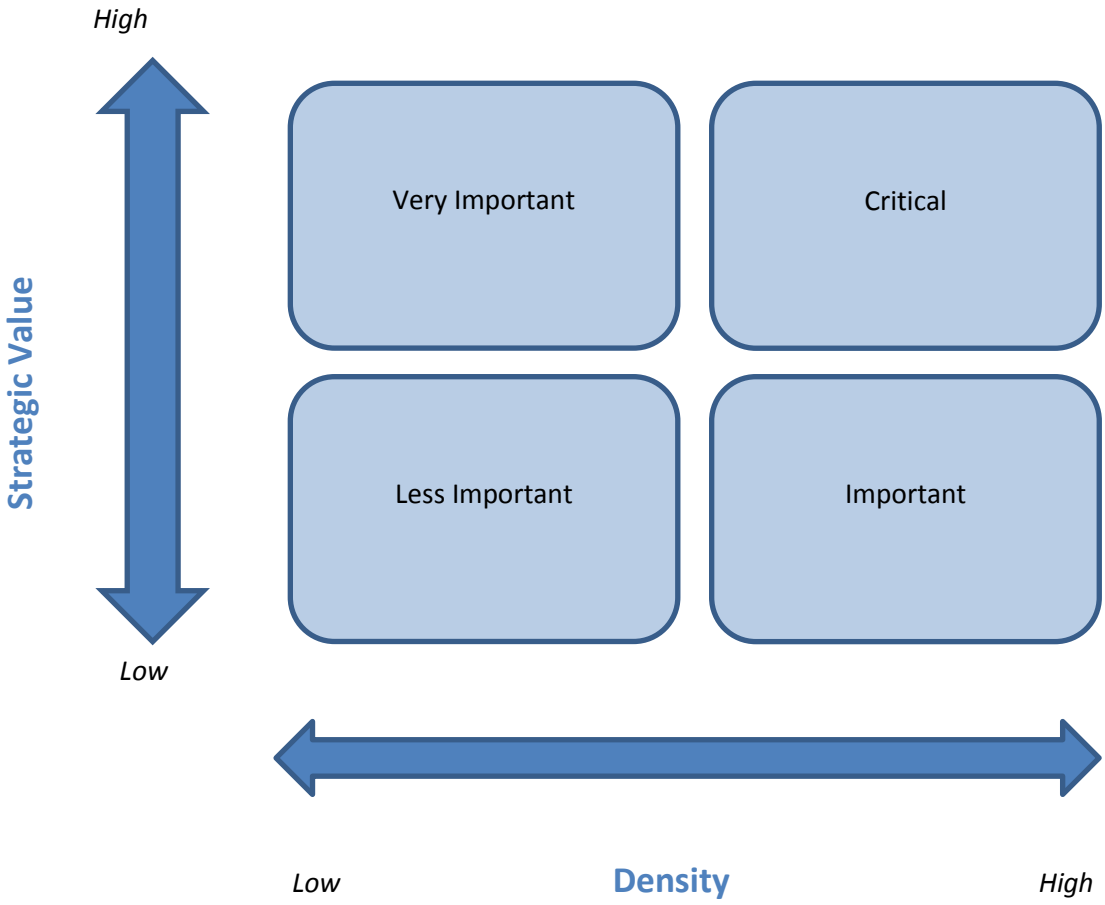
MATRIX ONE

STRATEGIC VALUE

Vs.

CONDITION

The second matrix addresses the relationship between a building's density and its strategic value. Buildings of high strategic value and high density are critical to the success of the institution. Those buildings with high strategic value and low density are very important. Buildings that are of low strategic value but are high density are still important to the institution's success. Buildings with no strategic importance and little density are not important. The relative strategic value and density should be considered in the prioritization of capital expenditures.



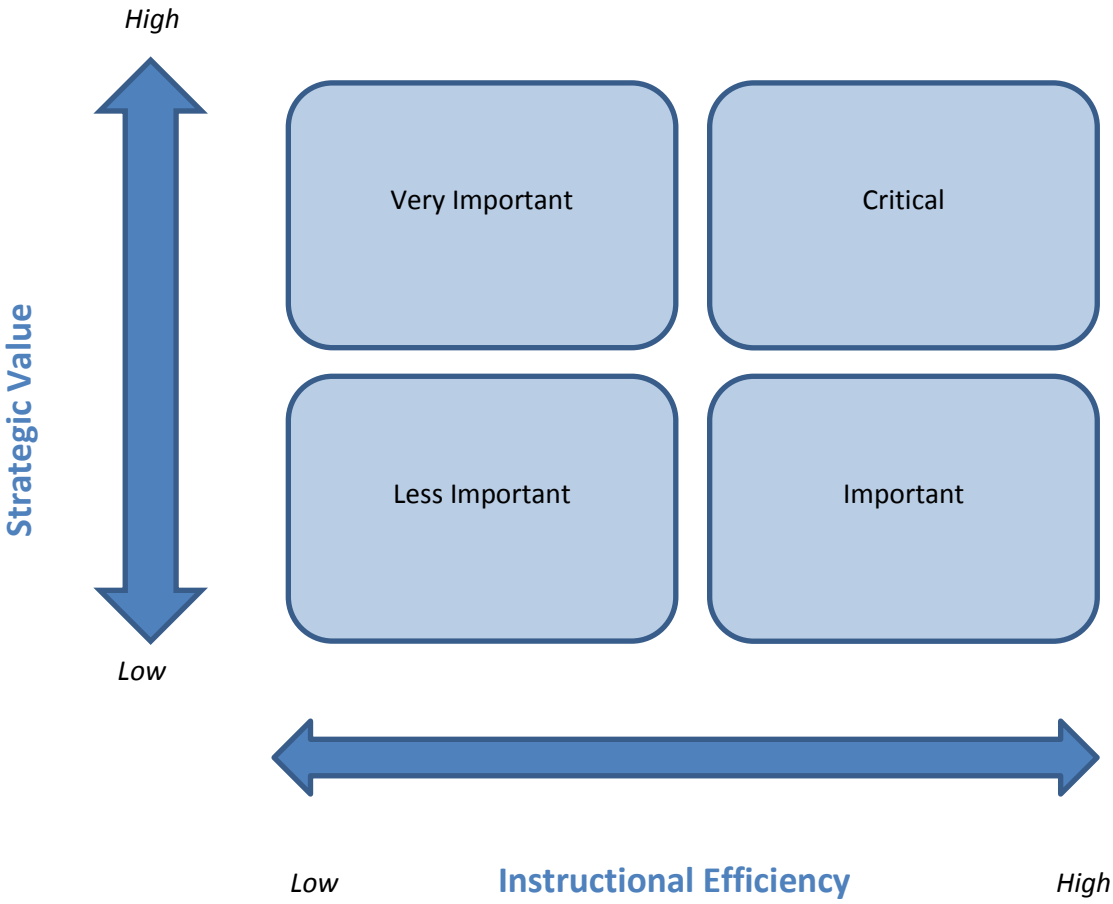
MATRIX TWO

STRATEGIC VALUE

Vs.

DENSITY

The level of an institution's instructional efficiency will influence its building density. This is the relationship examined in the third matrix. The ratio of students to faculty must be maintained at an optimal level to ensure quality and efficiency. A building that houses classrooms filled with students in programs of high strategic value is critical to an institution's success. A building with low efficiency that houses programs of high strategic value is very important. Buildings with programs of low strategic value that fill their classrooms are important. Buildings that do not have filled classrooms and are of low strategic value are not important



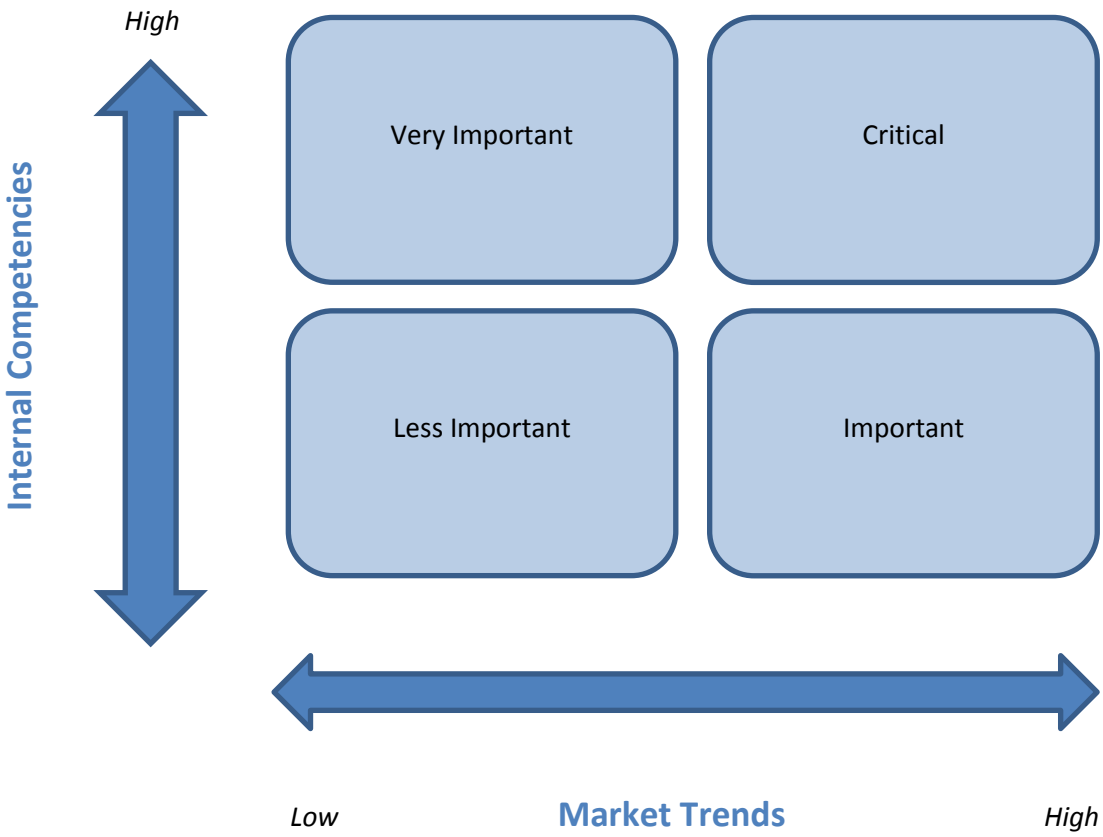
MATRIX THREE

STRATEGIC VALUE

Vs.

INSTRUCTIONAL EFFICIENCY

The programs that are housed within buildings must be evaluated to determine their importance. Colleges and universities must maintain the internal capabilities to respond to the needs of their students. The relative demand for an institution's offerings must be understood as well as its capacity to deliver quality instruction in those disciplines. The third matrix explores this relationship. High demand programs that the institution has the ability to deliver well are critical to its success. Lower demand programs that are of high quality are very important. High demand programs that are not high quality are important. Those programs with little demand and poor quality are not important to the institution's success.



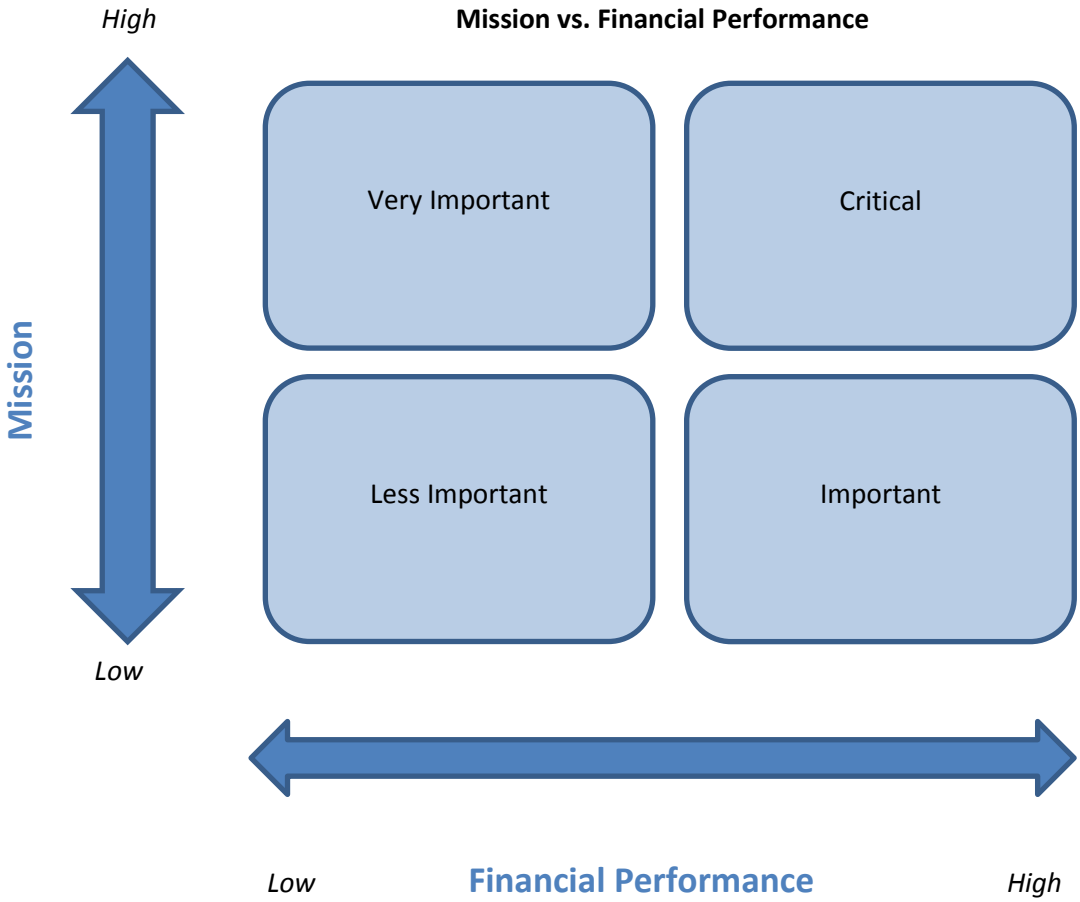
MATRIX FOUR

INTERNAL COMPETENCIES

Vs.

MARKET TRENDS

The fifth matrix examines the relationship between their mission importance of programs and their financial performance. Programs that are central to the mission of an institution and perform well financially are critical to its success. Those programs that are mission centric but do not perform well financially are very important. To achieve their vision, higher education institutions often must provide programs that are mission centric but do not perform well financially. The development of the enlightened citizenry is not possible without financially weak programs such as those found in the humanities. Programs that are not central to the mission but bring in significant financial resources are important. Finally, those programs that provide a low level of financial resources and are not mission centric are not important.



By using these five matrices, the Commission may determine whether or not the assets and processes align with institutions strategic plans. If the weighted average renovation age is collected by each building, a detailed financial projection of capital expenditure needs may be developed. Specific buildings can be identified that are in poor condition and of low strategic value. If these buildings are removed, the projected annual capital expenditure can be reduced.

The Higher Education Facility Information System (HEFIS) will be used to compile data to support capital strategic analysis. HEFIS will use a parametric estimating model that will be constructed to determine the deferred maintenance (DM) backlog. Parametric cost estimating is used by contractors and governmental agencies to determine the capital acquisition planning and for budgeting purposes. Parametric cost estimating ensures that meaningful data are collected in a cost effective manner.

Higher Education Facilities Information System

HEFIS will draw data from multiple sources. Institutional data reported to the West Virginia Board of Risk and Insurance Management (BRIM) will be used to provide basic data by building or structure including the current replacement value (CRV). Facilities staff on each campus will provide facility condition indexes for each building with an insured value exceeding $100,000. National construction data from RSmeans Online (RSmeans) will also be utilized to determine the DM backlog. These data will be used to determine composition percentages by major system for all buildings and structures. In addition, the RSmeans data will be used to assign a CRV percentage to each system and condition index combination for each building.

Determining Deferred Maintenance (DM) Backlog

The following process must be performed to determine the DM backlog:

- The building or structure compositions by system condition CRV percentages are determined.
- The system percentages for each building are multiplied by the total CRV for each building to determine the CRV percentage for each system.
- The CRV percentage is multiplied by the system CRV to determine the system DM amount.
- The total DM values for each system are added to determine the buildings DM amount.

Components of Buildings Used for Evaluation

To compile the data, building and structure components will be categorized by the following major systems:

- **Roofing:** Roof coverings, roof openings, gutters and flashing.
- **Exterior:** Exterior coatings and sealants, windows, and doors.
- **Interior Finishes:** All interior finishes on walls, ceilings, floors, and stairways, as well as interior doors.
- **HVAC Systems:** Heat, ventilating and air conditioning systems including controls; may include exhaust fans, or other mechanical equipment associated with indoor air quality.

- **Electrical Systems:** Electrical service and distribution within five feet of the facility, lighting, communications systems (phone, LAN), security and fire protection wiring and controls.
- **Plumbing Systems:** Water, sewer and fire protection piping, including bathroom fixtures.
- **Conveyance Systems:** Elevators, escalators, cranes, hoists, or other lifting mechanisms.

System Condition ratings from 5 to 1 for each facility system will be based on a systematic visual assessment by institutional facility personnel. The general definitions for each rating are:

- **5: Excellent.** Only normal scheduled maintenance required.
- **4: Good.** Some minor repairs needed. System normally functions as intended.
- **3: Fair.** More minor repairs and some infrequent larger repair required. System occasionally unable to function as intended.
- **2**: **Poor.** Significant repairs required. Excessive wear and tear clearly visible. Obsolete. System not fully functional as intended. Repair parts not easily obtainable. Does not meet all codes.
- **1**: **Not Usable**. Major repair or replacement required to restore function. Unsafe to use.
- **0: Non-existent.** The zero rating identifies that this system does not exist within the facility.

The system condition CRV percentage is based on the assigned condition rating for each system. The system condition CRV percentages are based on existing engineering data used by NASA to prepare their Deferred Maintenance Parametric Estimating Guide. These data may be adjusted over time as additional data are acquired or direct experience would indicate a better estimate would result from such a change. These percentages increase as the condition of the system gets lower ratings, creating a larger DM estimate. Using Table 1 as an example, if the structure of a facility receives a 5 rating, its contribution to DM is zero percent because there is typically no deferred maintenance for this rating. However, if the structure received a 3 rating its contribution to the deferred maintenance will be 10 percent of the CRV of the building. The system condition percentages also vary by system. A 3 rating for

the electrical system will contribute 13 percent of the CRV to the DM, or the plumbing system with a 2 rating will contribute 57 percent of the CRV to DM. These percentages vary by system, and are provided in Table 1. The renovation age for each building will be its useful life multiplied by the CRV for the building.

TABLE ONE

Estimated System Condition CRV by System Rating

System	5	4	3	2	1
Structural	0%	1%	10%	25%	150%
Exterior	0%	1%	10%	50%	101%
Roof	0%	9%	38%	75%	150%
HVAC	0%	2%	13%	63%	133%
Electrical	0%	2%	13%	63%	133%
Plumbing	0%	2%	10%	57%	121%
Conveyance	0%	2%	13%	50%	100%
Interior Finishes	0%	1%	10%	50%	101%

Table 2 provides a sample deferred maintenance estimate for a facility with a CRV of $10 million.

TABLE TWO

Deferred Maintenance Calculation by System

System	System Percent	CRV Total	System Rating	System Condition CRV percent	Deferred Maintenance
Structural	18%	$1,800,000	5	0.00%	$0
Exterior	17%	1,700,000	4	1.00%	17,000
Roof	5%	500,000	4	9.00%	45,000
HVAC	16%	1,600,000	3	13.00%	208,000
Electrical	18%	1,800,000	4	2.00%	36,000
Plumbing	5%	500,000	3	10.00%	50,000
Conveyance	6%	600,000	5	0.00%	0
Interior Finishes	15%	1,500,000	3	10.00%	150,000
Total	**100%**	**$10,000,000**			**$506,000**

The deferred maintenance estimates for utility infrastructure and grounds infrastructure will be calculated using the same condition rating scale.

Funding Formula

Buildings will be prioritized for each campus by the following parameters:

- Structure Demolition
- Strategic Value
- Renovation Age by Building

The projects within these parameters will be further defined by the following categories:

- Structure Demolition
- Reliability
- Safety/Code
- Asset Preservation
- Program Improvement
- Economic Operations
- New Construction

If an institution has excess space capacity, the demolition of structures must be addressed as a top priority before any other projects will be considered. Excess capacity will be determined annually by calculating the number of users per square feet at the campus level. Initially, the minimum density level will initially be 250 and will be adjusted as needed in subsequent years. Projects will be ranked by the percentage of campus square feet being demolished. Institutions may use the Water and Energy Savings Loan Fund to finance structure demolitions.

Major System Priorities

These categories will be further segregated by major system priorities in the following order:

Building Envelope

- Structural
- Exterior
- Roof

Building Systems

- HVAC
- Electrical

- Plumbing
- Conveyance
- Interior Finishes

Utility Infrastructure

Ground Infrastructure

New Construction

Institutional Improvements Using KPI Credits

Those institutions that exhibit strength through the improvement of their KPIs will receive credit through the formula. For improvement in the following KPIs, each institution will be awarded one point. The capital requests within the categories described above will be the total institution rank score. If an institution has multiple projects that fall within a category, those projects will be prioritized by institutional ranking.

Facilities

- Strategic Value
- Renovation Age by Building
- User Density

Brand

- Headcount and Full-Time Equivalent (FTE) Enrollment Trends
- Retention Rates
- Graduation Rates

Financial

- Composite Financial index
- Cost per Full-Time Equivalent Student
- Student/Faculty and Student/Staff Ratios
- Student Loan Default Rate
- Program Reduction

The future of public higher education in West Virginia depends upon its ability to serve the State's needs and become financially sustainable. The anticipated expenditure of $500 million over the next ten years to maintain the current status of West Virginia's public higher education facility portfolio may appear to be overwhelming. Each institution is unique and will require an approach that involves expansion, contraction or maintenance of the status quo. With

sufficient data, a meaningful Facilities Master Plan can be developed by each institution to ensure that capital assets support operating processes in an efficient and effective manner.

Campus Development Plans

Each governing board shall update its current campus development plan and submit the updated plan to the Commission for approval. A campus development plan shall be developed for a ten-year period and shall align with criteria specified in the following sources:

1. The system capital development plan;
2. The institution's approved master plan and compact; and
3. The current campus development plan objectives.

Campus development plans are intended to be aspirational; however, an institution's plan shall be appropriate to its size, mission, and enrollment and to the fiscal constraints within which the institution operates. HEFIS data will be used to develop the campus development plans. The matrices structure identified in the system capital development plan should be used to campus development plans.

Campus Development Plan Structure

I. History of the College or University

- A. Description of History
- B. Overview of Institution

II. Goal Formulation

- A. Institutional Mission Statement and Strategic Plan
- B. Goals and Issues for Future Academic Program

III. Existing Campus Conditions

- A. Campus Grounds
  - 1. Campus Physical Setting

2. Land Use
3. Building Use and Condition
4. Open Space and Pedestrian Circulation
5. Vehicular Circulation and Parking
6. Athletic and Recreational Facilities

B. Campus Infrastructure

1. Utilities
2. Storm Water
3. Communications

C. Community Setting

1. Regulatory Issues
2. Environmental Issue

IV. Future Campus Requirements

A. Description of Future Academic Program

B. Space Needs Analysis to Target Year

1. Student Enrollment Assumptions
2. Faculty and Staff Projections
3. Academic Space Projections
4. Academic Support Facilities Projections

C. Parking Space Projections

D. Athletic and Recreational Facilities Projections

E. Campus Infrastructure Projections

F. Proposed Land Acquisition/Disposition

V. Preliminary Development Plan

A. Alternative Concepts

1. Land and Building Use
2. Open Space and Pedestrian Circulation

3. Vehicular Circulation and Parking
4. Athletic and Recreational Facilities
5. Campus Infrastructure

B. Preliminary Cost Estimates

1. Capital
2. Operating

C. Identification of Preliminary Revenue Sources to Fund Capital Costs

D. Comparative Assessment of Alternatives

E. Alignment of Alternatives to Strategic Plan

1. Improvements to financial institution's sustainability
2. Improvements to Instructional and program efficiencies
3. Elimination of excess physical capacity
4. Reduction of deferred maintenance

F. Selection of Preferred Alternative

VI. Campus Development Plan

A. Land and Building Use

B. Vehicular Circulation and Parking

C. Open Space and Pedestrian Circulation

D. Athletic and Recreational Facilities

E. Campus Infrastructure

F. Comprehensive Plan

VII. Implementation

A. Revenues sources for Building, Infrastructure and Site Improvements

B. Cost Estimates for Building, Infrastructure and Site Improvements

C. Capital Improvement Program and Phasing Plan

D. Development Plan Design Standards

E. Planning and Review Process

Higher Education Facilities Information System

Data Elements

Board of Risk and Insurance Management Data

Customer Type	Cust_type
Account	Account
Customer Name	Customer Name
Division Number	Div_num
Location Number	Loc_num
Community Number	Comm_num
Location Type	Loc_type
Structure Name	Structure_name
Structure City	Structure_city
Structure Street	Structure_street
Structure zip code	Structure_zip
Structure County	Structure_county
Structure Located in Incorporated Area	Structure_in_incorporated
Building Type	Type_building
Sprinkler	Sprinkler
Year Constructed	Year_constructed
Protection Class	Protection_class
Engineer	Engineer
Report Number	Report_num
Construction Type	Const_type
Structure Use	Structure_use
Basement	Basement
Structure Levels	Structure_levels
Structure Area	Structure_area
Alarm	Alarms
Flood Zone	Flood_zone

Underground Coal Mine	Underground_coal_mine
Fire Class Code Maximum Foreseeable Loss	Fire_mfl
Fire Class Code Probable Maximum Loss	Fire_pml
Building Insured Amount	Amount_building
Building Contents Insured Amount	Amount_contents
Building Time Insured Amounts	Amount_time_elements
Comments	Comments
Addition Date	Add_date
Update Date	Update_date
Asbestos	Asbestos

Institutional Data Related to BRIM data

Strategic Value	Strategic Value
Number of Employee Occupants	Number of Employee Occupants
Number of Resident Hall Beds End of Fall Term	Number of Resident Hall Beds End of Fall Term
Roofing	Roofing
Exterior	Exterior
Interior Finishes	Interior Finishes
HVAC Systems	HVAC Systems
Electrical Systems	Electrical Systems
Plumbing Systems	Plumbing Systems
Conveyance Systems	Conveyance Systems

Banner Data

Course Number	CRN
Subject	SUBJ
Course	CRSE
Sequence	SEQ
Title	TITLE
Campus	CAMPUS
Maximum Enrolment	MAX_ENRL
Actual Enrollment	ACT_ENRL
Building	BUILDING
Room	ROOM
Days	DAYS
Start Time	Start Time
End Time	End Time
Hours Minutes	Hours:Mins

Institutional Related to Banner Data

Classroom Square Feet
Institution
Program
Average Class Size
Number of Majors
Degrees Awarded
Prospective Student Applications
ACT Score
Retention
Program Accreditation

Banner SQL Statement

```
SELECT SSBSECT_CRN CRN,
      SSBSECT_SUBJ_CODE SUBJ,
      SSBSECT_CRSE_NUMB CRSE,
      SSBSECT_SEQ_NUMB SEQ,
      F_GET_SECTION_TITLE('201610', SSBSECT_CRN) TITLE,
      SSBSECT_CAMP_CODE CAMPUS,
      SSBSECT_MAX_ENRL MAX_ENRL,
      SSBSECT_ENRL ACT_ENRL,
      SSRMEET_BLDG_CODE BUILDING,
      SSRMEET_ROOM_CODE ROOM,
      CASE WHEN SSRMEET_MON_DAY IS NOT NULL THEN 'M' ELSE NULL END ||
      CASE WHEN SSRMEET_TUE_DAY IS NOT NULL THEN 'T' ELSE NULL END ||
      CASE WHEN SSRMEET_WED_DAY IS NOT NULL THEN 'W' ELSE NULL END ||
      CASE WHEN SSRMEET_THU_DAY IS NOT NULL THEN 'R' ELSE NULL END ||
      CASE WHEN SSRMEET_FRI_DAY IS NOT NULL THEN 'F' ELSE NULL END ||
      CASE WHEN SSRMEET_SAT_DAY IS NOT NULL THEN 'S' ELSE NULL END ||
      CASE WHEN SSRMEET_SUN_DAY IS NOT NULL THEN 'U' ELSE NULL END
DAYS,
      SSRMEET_BEGIN_TIME || CASE WHEN SSRMEET_BEGIN_TIME IS NOT NULL
THEN '-' ELSE NULL END || SSRMEET_END_TIME TIME
FROM SSBSECT, SSRMEET
WHERE SSBSECT_TERM_CODE = '201610'
AND SSBSECT_SSTS_CODE = 'A'
AND SSRMEET_CRN = SSBSECT_CRN
AND SSRMEET_TERM_CODE = SSBSECT_TERM_CODE
ORDER BY 2, 3, 4
```

APPENDICES

Appendix A

Title 133
Legislative Rule
West Virginia Higher Education Policy Commission

§133-12-1. General.

1.1. Scope. This rule establishes the policy for the strategic planning, financing, development, and maintenance of public higher education capital assets.

1.2. Authority. West Virginia Code §18B-1-6 and §18B-19-17.

1.3. Filing Date. March 31, 2015.

1.4. Effective Date. April 30, 2015.

1.5. Repeal of Former Rule. Repeals and replaces Title 133 Series 12, Capital Project Management, filed November 20, 2001 and effective December 25, 2001.

§133-12-2. Purpose.

2.1. The purpose of this rule is to provide the West Virginia Higher Education Policy Commission (Commission) and the West Virginia Council for Community and Technical College Education (Council) authority to establish policies and procedures to meet the legislative objective stated in West Virginia Code §18B-1D-3 for the development of a state-level facilities plan and funding mechanism. The plan and funding mechanism must reduce the obligation of students and parents to bear the cost of higher education capital projects and facilities maintenance. The implementation of the plan must result in the following outcomes:

2.1.a. Development by the Commission and Council of a compact with elected state officials to fund a significant portion of higher education capital project needs from dedicated state revenues;

2.1.b. Development by the Commission and Council of a system to establish priorities for institution capital projects in a manner that is consistent with state public policy goals for higher education;

2.1.c. Implementation of facilities maintenance plans by institutions to ensure that maintenance needs are not deferred inappropriately;

2.1.d. Efficient use of existing classroom and other space by institutions;

2.1.e. New capital funding is applied effectively to projects that have a demonstrated need for new facilities or major renovations;

2.1.f. The cost of operating and maintaining the facilities and physical plants of institutions are appropriate for the size and mission of the institution; and

2.1.g. Capital and facilities maintenance planning that gives careful consideration to the recommendations arising from the committee established by the Joint Committee on Government and Finance for the purpose of making a specific and detailed analysis of higher education capital project and facilities maintenance needs.

§133-12-3. Definitions.

3.1. ADA. Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq*.

3.2. Alteration. Projects addressing changing use of space.

3.3. Asset preservation. Projects that preserve or enhance the integrity of building systems or building structure, or campus infrastructure.

3.4. Auxiliary enterprise. An entity that exists to furnish goods or services to students, faculty, staff or others; charges a fee directly related to, although not necessarily equal to, the cost of the goods or services; and is managed as essentially self-supporting.

3.5. Auxiliary facility. A building or structure that is used for an auxiliary enterprise including, but not limited to, residence halls, food services, parking, intercollegiate athletics, faculty and staff housing, student unions, bookstores and other service centers.

3.6. Auxiliary fees. Funds derived from, but not limited to, the following sources:

3.6.a. Parking fees received from any source;

3.6.b. Revenues received from athletic events, including ticket sales, television revenues and skybox fees;

3.6.c. Bookstore revenues except revenues from bookstore commissions from a private entity, which must be set aside for non-athletic scholarship funds;

3.6.d. Student union vendor and user fees;

3.6.e. Donations or grants from any external source;

3.6.f. Facility rental fees; and

3.6.g. Fees assessed to students to support auxiliary enterprises.

3.7. Building envelope. Any work done to the exterior of an individual building, including windows, brick repointing, exterior doors and other exterior components.

3.8. Building systems. Any work done on the mechanical, HVAC, electrical, plumbing, and other building systems within individual buildings.

3.9. Capital planning. A purposeful activity that focuses attention on long term physical plant objectives which should be accomplished in a logical sequence over time as opportunities arise and resources become available.

3.10. Capital project management. Planning, designing, bidding and providing construction administration and oversight of architectural, engineering and construction contracts and projects.

3.11. Capital projects. The construction or renovation of a fixed asset, including buildings, fixed equipment and infrastructure.

3.12. Cost. The total dollar amount of a capital improvement including real property acquisition, legal fees, construction and labor, whether consisting of state dollars or alternative third party financing.

3.13. Debt structure. The mix of an institution's long term debt. Debt includes bond issues, notes payable and capital leases payable.

3.14. Deferred maintenance. Repair, maintenance and renewal of capital facilities which should be part of normal maintenance management, but which have been postponed to a future budget cycle or until funds become available.

3.15. Economic operations. Projects that result in a reduction of annual operating costs or capital savings.

3.16. Educational and general capital fees. The fees collected from students to pay debt service for capital improvement bonds issued by the Commission and governing boards for educational and general facilities, for the maintenance of those facilities and to fund capital improvements in those facilities on a cash basis.

3.17. Educational and general facility. A building or structure used for instruction and instructional support purposes, and includes classroom, laboratory, library, computer laboratory, faculty and administrative office and other academic support spaces.

3.18. Extraordinary circumstance. A situation involving life-safety issues, issues that would result in extensive damage to a facility if not addressed immediately, any unforeseen opportunity to use external funds, or any other situation the Commission or Council determines should warrant special consideration.

3.19. Facilities maintenance expenditures. The expenditures for activities related to routine repair and maintenance of buildings and other structures, including normally recurring repairs and preventive maintenance.

3.20. Facilities maintenance to capital expenditure ratios. The annual facilities maintenance expenditures divided by the capital expenditures reported in the institution's annual financial statements capital assets footnote.

3.21. Grounds infrastructure. Any work done to the hardscape and softscape on campus. Examples include signage, sidewalks, roads and flower beds.

3.22. Governing board, state institution of higher education, and institution under the jurisdiction of the Commission or Council. All state institutions of higher education including Marshall University and West Virginia University and their respective governing boards.

3.23. Life-safety. A condition existing on a campus that, if not corrected immediately, would jeopardize the safety and property of students, faculty, staff and the visiting public.

3.24. Life/Safety/Code. Code compliance issues and institutional safety priorities or items that are not in conformance with current codes, even though the system is "grandfathered" and exempt from current code.

3.25. Maintenance. The work necessary within a budget cycle to realize the originally anticipated life of a fixed asset, including buildings, fixed equipment and infrastructure.

3.26. Modernization. The replacement of components before the end of their life expectancy.

3.27. New construction. The creation of new stand-alone facilities or the creation of an addition to an existing facility.

3.28. Physical plant age ratio. The annual financial statement's accumulated depreciation divided by depreciation expense. The ratio estimates institutional deferred maintenance as well as the operating efficiency of the existing plant facilities.

3.29. Physical plant package. The type of renovation or improvement.

3.30. Program improvement. Projects that improve the functionality of space, primarily driven by academic, student life and athletic programs or departments. These projects are also issues of campus image and impact.

3.31. Project backlog. The list of capital projects that have not been funded.

3.32. Reliability. Issues of imminent failure or compromise to the system that may result in interruption to program or use of space.

3.33. Repair/Maintenance. The replacement of components that have failed or are failing, or planned replacement at the end of a component's life expectancy.

3.34. Replacement value. The cost to replace an item on the present market.

3.35. Renovation. Enhancements made to a building or building component.

3.36. Space renewal. Any work done on interior spaces that does not impact any of the building's core systems. This would include painting, carpet replacement, fixture replacement and furniture renewal.

3.37. Staffing ratios. The facilities management staffing ratios defined by the American Association of Physical Plant Administrators to calculate facilities performance indicator.

3.38. State capital funding. Financial resources provided from state government revenues or debt financing exclusive of funds from higher education sources.

3.39. Synthetic financial products. Financial products that are primarily used to manage interest rate risk or asset/liability balance.

3.40. Transitional. Physical facilities that require a full renovation, adaptive reuse or demolition.

3.41. Utility infrastructure. Projects completed on components of the energy distribution systems outside of the building. This would include steam lines, central plant, water lines and electrical lines and other utility components.

§133-12-4. System Capital Development Planning.

4.1. By December 31, 2014, the Commission and Council shall, jointly or separately, develop a system capital development plan for approval by the Legislative Oversight Commission on Education Accountability. This plan must include the following constraints:

4.1.a. State capital funding will focus on educational and general capital improvements, not capital projects.

4.1.b. Renovations of existing buildings will generally receive greater consideration for state funding than new construction.

4.1.c. Institutions will fund maintenance and deferred maintenance needs as the Legislature increases funding for new education and general capital

improvements and major renovations and supplants existing educational and general debt.

4.1.d. The effect of additional debt loads on students and the financial health of institutions will be considered.

4.1.e. State capital funding and institutional capital fees will be used primarily for maintenance and deferred maintenance needs.

4.1.f. Institutions will not be rewarded with state capital funding if they neglect to address facilities maintenance needs or do not prudently manage their capital resources.

4.2. At a minimum, the system capital development plan will include the following:

4.2.a. System goals for capital development.

4.2.b. An explanation of how system capital development goals align with established state goals, objectives and priorities and with system master plans.

4.2.c. A process for prioritizing capital projects for state funding based on their ability to further state goals, objectives and priorities and system capital development goals. The following data elements will be used for this process:

4.2.c.1. Physical plant needs segregated by the following asset groups:

4.2.c.1.A. Education and general.

4.2.c.1.B. Auxiliary.

4.2.c.1.C. Transitional.

4.2.c.2. Physical plant needs by project category:

4.2.c.2.A. Repair/ Maintenance.

4.2.c.2.B. Modernization.

4.2.c.2.C. Alteration.

4.2.c.2.D. New Construction.

4.2.c.3. Physical plant investment needs segregated by the following categories:

4.2.c.3.A. Reliability.

4.2.c.3.B. Asset Preservation.

4.2.c.3.C. Program Improvement.

4.2.c.3.D. Economic Operations.

4.2.c.3.E. Life/Safety/Code.

4.2.c.3.F. New Construction.

4.2.c.3. Physical plant package needs segregated by the following categories:

4.2.c.4.A. Building Envelope.

4.2.c.4.B. Building Systems.

4.2.c.4.C. Life/Safety/Code.

4.2.c.4.D. Space Renewal.

4.2.c.4.E. Utility Infrastructure.

4.2.c.4.F. Existing Grounds Infrastructure.

4.2.c.4.G. New Construction.

4.2.d. A building renewal formula to calculate a dollar benchmark that shall be collected annually and invested in facilities to minimize deferred maintenance and to provide the Commission and Council objective information to determine if the investments in maintenance are occurring. The following components will be included in the formula:

4.2.d.1. A net asset value for each building determined by using the following formula:

$$NAV = \frac{ReplacementValue - ProjectBacklog}{ReplacementValue}$$

4.2.d.2. Space utilization percentage.

4.2.d.3. Square feet.

4.2.d.4. Needs segregated by:

4.2.d 4.A. Asset Group.

4.2.d.4.B. Project Category.

4.2.d.4.C. Investment Needs.

4.2.d.4.D. Physical Plant Package.

4.2.d.5. Funding will be prioritized for each institution in accordance with approved institutional plans.

4.2.d.6. Facility utilization rates will be used to prioritize capital projects across the systems.

4.2.d.7. Institutions with overall net asset values and capacity utilization rates that exceed or equal thresholds set annually by the Commission and Council may request funds for new facilities. If these projects do not replace an existing facility, they would be included in the Program Improvement category.

4.2.d.8. Capital project funds will be distributed to institutions for capital projects in the following investment category order:

4.2.d.8.A. Reliability.

4.2.d.8.B. Life/Safety/Code.

4.2.d.8 C. Asset Preservation.

4.2.d.8.D. Program Improvement.

4.2.d.8.E. Economic Operations.

4.2.d.8.F. New Construction.

4.2.d.9. Institutions may request funding for new facilities that replace aged and obsolete structures. The investment categories will be used to analyze the cost of the improvements resulting from the new construction.

4.2.d.10. An aggregate net asset value percentage change resulting from the proposed funding will be calculated for each institution.

4.2.e. A process for governing boards to follow in developing and submitting campus development plans to the Commission and Council for approval; and

4.2.f. A process for governing boards to follow to ensure that sufficient revenue is generated for and applied toward facilities maintenance. This process will incorporate the following benchmark comparisons:

4.2.f.1. Facilities maintenance expenditures.

4.2.f.2. Facilities maintenance to capital expenditure ratios.

4.2.f.3. Net Asset Value.

4.2.f.4. Facility staffing ratios.

4.2.f.5. Physical plant age ratios.

4.3. The system capital development plan shall be created in consultation with governing boards and appropriate institution staff. Before approving the system capital development plan, the Commission and Council shall afford interested parties an opportunity to comment on the plan through a notice-and-comment period of at least thirty days. The Commission will approve capital development plans for Council institutions only after the Council has approved these plans.

4.4. The Commission and Council shall update its system capital development plan at least once in each ten-year period.

§133-12-5. Campus Development Plan.

5.1. Each governing board shall update its current campus development plan and submit the updated plan to the Commission or Council for approval by June 30, 2015. A campus development plan shall be developed for a ten-year period and shall align with criteria specified in the following sources:

5.1.a. The system capital development plan;

5.1.b. The institution's approved master plan and compact; and

5.1.c. The current campus development plan objectives.

5.2. Campus development plans are intended to be aspirational; however, an institution's plan shall be appropriate to its size, mission, and enrollment and to the fiscal constraints within which the institution operates. At a minimum the campus development plan shall include the following:

5.2.a. The governing board's development strategy;

5.2.b. An assessment of the general condition and suitability of buildings and facilities using the following data elements:

5.2.b.1. Physical plant needs segregated by the following asset groups:

5.2.b.1.A. Educational and general.

5.2.b.1.B. Auxiliary.

5.2.b.1.C. Transitional.

5.2.b.2. Physical plant package needs segregated by the following by project categories:

5.2.b.2.A. Repair/Maintenance.

5.2.b.2.B. Modernization.

5.2.b.2.C. Alteration.

5.2.b.2.D. New Construction.

5.2.b.3. Physical plant package investment needs segregated by the following categories:

5.2.b.3.A. Reliability.

5.2.b.3.B. Asset Preservation.

5.2.b.3.C. Program Improvement.

5.2.b.3.D. Economic Operations.

5.2.b.3.E. Life Safety/Code.

5.2.b.3.F. New Construction.

5.2.c.3. Physical plant package needs segregated by the following categories:

5.2.b.4.A. Building Envelope.

5.2.b.4.B. Building Systems.

5.2.b.4.C. Life/Safety/Code.

5.2.b.4.D. Space Renewal.

5.2.b.4.E. Utility Infrastructure.

5.2.b.4.F. Grounds Infrastructure.

5.2.c. An assessment of the impact of projected enrollment and demographic changes on building and facility needs;

5.2.d. A comprehensive list of deferred maintenance projects that need to be addressed for each campus by building or facility including an estimated cost for each;

5.2.e. A list of existing buildings and facilities in need of renovations, additions, demolition or any combination thereof;

5.2.f. A list of major site improvements that are needed, including vehicular and pedestrian circulation, parking and landscaping;

5.2.g. A list of telecommunications, utilities and other infrastructure improvements that are needed;

5.2.h. A delineation of clear property acquisition boundaries that are reasonably appropriate for campus expansion;

5.2.i. A list of proposed new facilities and building sites;

5.2.j. A list of capital projects in priority order;

5.2.k. Estimates of the timing, phasing and projected costs associated with individual projects;

5.2.l. If an institution has multiple campuses within 50 miles of each other, a delineation of how the campuses should interact and support each other to minimize duplication of facilities, improve efficiency and be aesthetically compatible;

5.2.m. A statement of the impact of the plan upon the local community and the input afforded local and regional government entities and the public with respect to its implementation;

5.2.n. An estimate of the plans' impact on the institution's capacity utilization, operating costs including depreciation, and projected financial status; and

5.2.o. Any other requirement established by the Commission and Council in these rules.

5.3. Campus development plans shall incorporate all current and proposed facilities, including educational and general and auxiliary facilities.

5.4. At the next regularly scheduled meeting of the Commission or Council following the fifth anniversary date after the Commission and Council approves the development plan of a governing board, the governing board shall report on the

progress made in the first five years to implement the campus development plan for each campus under its jurisdiction. In addition, the governing board shall report on its plans to implement the remaining five-year period of its campus development plan.

5.5. Each governing board shall update its campus development plan at least once during each ten-year period and any update is subject to the approval of the Commission and Council.

5.6. A governing board may not implement a campus development plan or plan update that has not been approved by the Commission or Council, as appropriate. The purchase of any property for the construction of a facility that is not included in the campus development plan creates an update to the campus development plan that must be approved by the Commission or Council prior to its purchase.

5.7. Campus development plans that are in progress as of the effective date of this rule are subject to the provisions of the previous capital rule.

§133-12-6. Capital Appropriation Requests.

6.1. The Commission and Council each shall submit a prioritized capital appropriation request annually to the state budget office in accordance with state law consisting of major capital projects and maintenance projects. The dollar value threshold distinguishing major projects from other projects will be set annually by the Commission and Council for their respective institutions.

6.2. The Commission, Council, and governing boards shall use the following process in reviewing and submitting a list of major educational and general capital projects so that a prioritized major capital project list, approved by the Commission in conjunction with the Council may be submitted to the state budget office by the applicable deadline:

6.2.a. The governing board's major capital project list shall be submitted in accordance with timelines established by the Commission and Council and include the following items:

6.2.a.1. Projects identified in the governing board's approved campus development plan or plans. A project may not be included which is not contained in the approved plan, except when extraordinary circumstances otherwise warrant;

6.2.a.2. A current estimate of each project's estimated cost accounting for inflation since completion of the campus development plan and the estimated cost of operation and maintenance and if an existing facility, the estimated cost of repair and renovation, if applicable, of the facility. The size and scope of the project may not change unless the campus

development plan has been updated and approved as provided in accordance with West Virginia Code §18B-19-4 and section four of this rule; and

6.2.a.3. Any additional information required to be provided by the Commission, Council, or state budget office.

6.2.b. The Commission and Council each shall rank the major capital projects submitted by the governing boards according to priority consistent with the criteria outlined in the system capital development plan. Such criteria shall include but not be limited to the cost of the project, its conformity to the mission of the institution, the future maintenance and operational costs, the cost of any renovation or repair if an existing facility, and other criteria as determined by the Commission and Council.

6.3. The Commission, Council, and governing boards shall adhere to the following process in submitting a list of maintenance projects so that a prioritized maintenance project list, approved by the Commission and Council may be submitted to the state budget office by the applicable deadline.

6.3.a. The Commission and Council shall provide each governing board annually a building renewal calculation that identifies the funds that should be collected and invested in its buildings and facilities during the next fiscal year to maintain them and minimize deferred maintenance.

6.3.b. As soon as the governing board receives the building renewal calculation, each governing board shall make realistic revenue estimates of the funds available for maintenance projects from educational and general capital fees, from auxiliary and auxiliary capital fees and from any other revenue that may be used for maintenance projects, as well as any anticipated reserves. The governing boards then shall identify and submit to the Commission or Council proposed maintenance projects, consistent with its campus development plan or plans, to be funded from these revenues for projects more than $1 million, or $15 million for Marshall University and West Virginia University.

6.3.c. The Commission and Council each shall report to the Legislative Oversight Commission on Education Accountability on the revenue available to governing boards for educational and general and auxiliary maintenance projects, as well as any shortfalls based on building renewal formula calculation, and major maintenance projects that institutions propose to undertake during the upcoming fiscal year.

6.3.d. The Commission and Council shall work with institutions under their respective jurisdiction to ensure that adequate funds are generated to fund maintenance and build adequate reserves from educational and

general and auxiliary capital fees and other revenue consistent with the building renewal formula.

§133-12-7. Capital Project Financing.

7.1. The Commission and governing boards, jointly or singly, may issue revenue bonds for capital project financing in accordance with West Virginia Code **§**18B-10-8.

7.2. A governing board may seek funding for and initiate construction or renovation work in excess of $1 million only for projects contained in an approved campus development plan.

7.3. A governing board may fund capital improvements on a cash basis, through bonding or through another financing method that is approved by the Commission or Council.

7.3.a. If the cost of an improvement project for any institution, except Marshall University or West Virginia University, exceeds $1 million, the governing board first shall obtain the approval of the Commission or Council, as appropriate. If the cost of an improvement project for Marshall University or West Virginia University exceeds $15 million, the governing board first shall obtain the approval of the Commission. In determining cost, all dollars associated with the project, whether state or private funds, will be calculated. Subject to the provisions of this section, the governing board will submit a completed Financial Feasibility Study in the format required by the Commission or Council sixty days in advance of the deadline for submitting agenda items to the Commission or Council (Appendix A).

7.3.b. Each institution will establish a Debt Policy to ensure that debt is prudently used to meet the goals of institutional strategic and capital plans. The policy will include the following components:

7.3.b.1. Debt Structure.

7.2.b.2. Debt Ratios.

7.2.b.3. Synthetic Financial Products.

7.3.c. Prior to approving bonding or any alternative financing method, the Commission or Council, as appropriate, shall evaluate the following issues:

7.3.c.1. The institution's debt capacity and ability to meet the debt service payments for the full term of the financing;

7.3.c.2. Compliance with the institution’s debt policy;

7.3.c.3. The institution's capacity to generate revenue sufficient to complete the project;

7.3.c.4. The institution's ability to fund ongoing operations and maintenance;

7.3.c.5. The impact of the financing arrangement on students; and

7.3.c.6. Any other factor considered appropriate.

7.4. A governing board shall notify the Joint Committee on Government and Finance at least thirty days before beginning construction or renovation work on any capital project in excess of $1 million.

7.5. The Commission and Council may pledge all or part of the fees of any or all state institutions of higher education as part of a system bond issue.

7.6. Any fee or revenue source pledged prior to the effective date of this section for payment of any outstanding debt remains in effect until the debt is fully repaid or refunded.

§133-12-8. Capital Project Management.

8.1. The Commission, Council, and governing boards shall ensure that capital funds are spent appropriately and that capital projects are managed effectively. Project management shall be conducted in all respects according to sound business practices and applicable laws, and rules.

8.2. The Commission shall employ a sufficient number of competent facilities staff experienced in capital project development and management that is suitable for the number, size and complexity of the capital projects being managed. By December 31, 2013, and continuing thereafter, at least one employee shall be Leadership in Energy and Environmental Design (LEED) certified.

8.3. An institution that has entered into construction contracts averaging more than $50 million over the most recent rolling five-year period is responsible for capital project management at that institution if it meets the following additional conditions:

8.3.a. The governing board shall employ a facilities staff experienced in capital project development and management that is suitable for the number, size and complexity of the capital projects being managed and, by December 31, 2013, and continuing thereafter, at least one of these employees shall be Leadership in Energy and Environmental Design (LEED) certified;

8.3.b. The governing board shall promulgate and adopt a capital project management rule in accordance with West Virginia Code §18B-1-6 which is consistent with the capital management rules of the Commission and Council. The capital project management rule shall include at least the following items:

8.3.b.1. Delineation of the governing board's responsibilities with respect to capital project management and the responsibilities delegated to the institution's president;

8.3.b.2. A requirement for the use of the state's standard contract documents for architectural, engineering, construction, construction management and design-build services as appropriate to a particular project;

8.3.b.3. The governing board's requirements for the following procedures:

8.3.b.3.A. Monitoring and approving project designs to ensure conformance with the state and system goals, objectives and priorities and the governing board's master plan, compact and campus development plan;

8.3.b.3.B. Approving project budgets, including a reasonable contingency reserve for unknown or unexpected expenses and for bidding;

8.3.b.3.C. Approving architectural, engineering and construction contracts exceeding an amount to be determined by the governing board;

8.3.b.3.D. Approving contract modifications and construction change orders; and

8.3.b.3.E. Providing a method for project closeout and final acceptance of the project by the governing board.

8.3.c. The institutional capital project management rule shall be filed with the Commission no later than one hundred eighty days following the effective date of this rule required of the Commission and Council in West Virginia Code **§**18B-19-17.

8.3.d. The Commission may review or audit projects greater than $5 million periodically to ascertain that appropriate capital project management practices are being employed.

8.4. For institutions that have entered into construction contracts averaging at least $20 million, but not more than $50 million, over the most recent rolling five-year period:

8.4.a. The governing board, with assistance as requested from the Commission, shall manage all capital projects if the governing board meets the following conditions:

8.4.a.1. Employs at least one individual experienced in capital project development and management; and

8.4.a.2. Promulgates and adopts a capital project management rule in accordance with West Virginia Code §18B-1-6 that is approved by the Commission. The capital project management rule may be amended at the discretion of the governing board, but amendments shall be submitted to the Commission for review and approval before becoming effective.

8.4.b. The capital project management rule of the governing board shall include at least the following items:

8.4.b.1. Delineation of the governing board's responsibilities with respect to capital project management and the responsibilities delegated to the institution's president;

8.4.b.2. A requirement for the use of the state's standard contract documents for architectural, engineering, construction, construction management and design-build services as appropriate to a particular project; and

8.4.b.3. The governing board's requirements for the following procedures:

8.4.b.3.A. Monitoring and approving project designs to ensure conformance with the state and system goals, objectives and priorities and the governing board's master plan, compact and campus development plan;

8.4.b.3.B. Approving project budgets, including a reasonable contingency reserve for unknown or unexpected expenses and for bidding;

8.4.b.3.C. Approving architectural, engineering, construction and other capital contracts exceeding an amount to be determined by the governing board;

8.4.b.3.D. Approving contract modifications and construction change orders; and

8.4.b.3.E. Providing a method for project closeout and final acceptance of the project by the governing board.

8.4.c. If an institution does not meet the provisions of this subsection, the Commission shall manage all capital projects exceeding $1 million.

8.4.d. The Commission staff shall review and audit periodically all projects greater than $1 million to ascertain that appropriate project management practices are being employed. If serious deficiencies are identified and not addressed sufficiently within ninety days, Commission staff may assume management of all projects.

8.5. For institutions that have entered into construction contracts averaging less than $20 million over the most recent rolling five-year period and for all community and technical colleges, the Commission and Council shall manage capital projects exceeding $1 million. The following procedures shall be utilized in the planning, development and execution of capital projects:

8.5.a. After review and recommendation by the governing board, the Commission and Council shall monitor and if acceptable, approve project designs to ensure conformance with the state and system goals, objectives and priorities and the governing board's master plan, compact and campus development plan;

8.5.b. After review and recommendation by the governing board, the Commission and Council shall, if acceptable, approve project budgets, including a reasonable contingency reserve for unknown or unexpected expenses and for bidding;

8.5.c. After review and recommendation by the governing board, the Commission and Council shall, if acceptable, approve architectural, engineering, construction and other capital contracts;

8.5.d. After review and recommendation by the governing board, the Commission and Council shall, if acceptable, approve contract modifications and construction change orders; and

8.5.e. After review and recommendation by the governing board, the Commission and Council shall, if acceptable, provide a method for project closeout and final acceptance of the project by the governing board.

§133-12-9. Maintenance.

9.1. Each governing board shall ensure that facilities under its jurisdiction are maintained and that a listing of any major deferred maintenance projects is provided annually to the Commission and Council.

9.2. Each governing board shall strive to invest annually an amount for maintenance that is consistent with the building renewal formula developed and approved by the Commission and Council and to generate a reserve sufficient to address unexpected maintenance needs.

9.3. The Commission and Council shall determine whether a governing board is devoting sufficient resources for maintenance based on the following criteria:

9.3.a. The amount of maintenance expenditures compared to building renewal formula estimates of appropriate expenditures; and

9.3.b. Periodic evaluations of the conditions of facilities at the institution and its performance and effectiveness in maintaining its facilities.

§133-12-10. Higher Education Facilities Information System.

10.1. The Commission and Council shall develop and maintain a higher education facilities information system. The higher education facilities information system shall serve as a vehicle for carrying out the following functions:

10.1.a. Acquisition of statewide data;

10.1.b. Statewide standardization of space use and classification based on nationally recognized standards and measurements to facilitate comparisons among postsecondary education institutions within the state and in the region and nation; and

10.1.c. Other purposes as determined by the Commission and Council.

10.2. At a minimum, the higher education facilities information system shall serve the following purposes:

10.2.a. Develop and maintain a statewide inventory of higher education facilities, including those acquired by long-term lease, lease-purchase or other arrangement whereby the institution has long-term beneficial use. The inventory shall include, but is not limited to, the institution and campus location of the facility, the construction date, the original cost, square footage, floor plans, type of construction, ownership status, the purposes for which it is used, the current replacement cost and any other data the Commission and Council considers appropriate;

10.2.b. Develop and maintain an inventory of all rooms within each facility, which includes, but is not limited to, the room number, the square footage, room usage, number of student stations and any other data the Commission and Council considers appropriate;

10.2.c. Provide a vehicle for institutions to submit capital appropriation requests to the Commission and Council;

10.2.d. Provide a vehicle to track the status and cost of institution capital projects from inception to completion, including major maintenance and deferred maintenance projects; and

10.2.e. Provide information on facilities needed to calculate the building renewal formula.

10.3. The Commission or Council, as appropriate, shall establish benchmarks for space use including an analysis of utilization for the fall of each academic year. The benchmarks will calculate density by measuring the number of occupants per 100,000 gross square feet. This calculation will include faculty, staff, students and visitors. Separate calculations will be made for education and general and auxiliary facilities.

10.4. Each governing board and any institution under its jurisdiction shall participate and cooperate with the Commission and Council in all respects in the development and maintenance of the higher education facilities information system.

10.5. The higher education facilities information system may be used for other purposes set forth by the Commission and Council as specified by these rules.

§133-12-11. Authorization to Sell Property; Use of Proceeds.

11.1. The Commission, Council, and governing boards each may sell all or part of any real property that it owns, either by contract or at public auction, and retain the proceeds of the transaction provided the following steps are taken:

11.1.a. Providing for property appraisal by two independent licensed appraisers. The property may not be sold for less than the average of the two appraisals;

11.1.b. Providing notice to the public in the county in which the real property is located by a Class II legal advertisement pursuant to West Virginia Code §59-3-2;

11.1.c. Holding a public hearing on the issue in the county in which the real property is located; and

11.1.d. In case of the Commission, notifying the Joint Committee on Government and Finance.

11.2. The Commission, Council, or a governing board shall deposit the net proceeds from the sale, lease, conveyance or other disposal of real property into a special revenue account in the State Treasury to be appropriated by the Legislature in the annual budget bill for the purchase of additional real property, equipment or technology, or for capital improvements or maintenance at the institution that sold the surplus real property.

11.3 For purposes that further the state goals, objectives and priorities for higher education set out in State code, the Commission, Council and each governing board may lease, as lessor, any real property that it owns, either by contract or at public auction, and retain the proceeds of the lease. The Commission, Council and each governing board may convey, transfer or exchange any real property it owns to any other public body.

§133-12-12. Authorization to Lease-Purchase.

12.1. The Commission and Council may enter into lease-purchase agreements for capital improvements, including equipment, on behalf of, or for the benefit of, a state institution of higher education or the Commission or Council.

12.2. After the Commission or Council has granted approval for a lease-purchase agreement, which is $1 million or higher, to a governing board, the board may enter into a lease-purchase agreement for capital improvements, including equipment.

12.3. The governing boards of Marshall University and West Virginia University may enter into lease-purchase agreements without seeking the approval of the Commission.

12.4. A lease-purchase agreement constitutes a special obligation of the State of West Virginia. The obligation may be met from any funds legally available to the Commission, Council, or the institution and shall be cancelable at the option of the Commission, Council, or governing board at the end of any fiscal year. The obligation, or any assignment or securitization of the obligation, never constitutes an indebtedness of the State of West Virginia or any department, agency or political subdivision of the state, within the meaning of any constitutional provision or statutory limitation, and may not be a charge against the general credit or taxing powers of the state or any political subdivision of the state. The facts shall be plainly stated in any lease- purchase agreement.

12.5. A lease-purchase agreement shall prohibit assignment or securitization without consent of the lessee and the approval of the agreement as to form by the Attorney General. Proposals for any agreement shall be requested in accordance with the requirements of this section and rules of the Commission.

In addition, any lease-purchase agreement that exceeds $100,000 total shall be approved as to form by the Attorney General.

12.6. The interest component of any lease-purchase obligation is exempt from all taxation of the State of West Virginia, except inheritance, estate and transfer taxes. It is the intent of the Legislature that if the requirements set forth in the Internal Revenue Code of 1986, as amended, and any regulations promulgated pursuant thereto are met, the interest component of any lease- purchase obligation also is exempt from the gross income of the recipient for purposes of federal income taxation and may be designated by the governing board or the president of the institution as a bank-qualified obligation.

§133-12-13. Authorization to Lease.

13.1. The Commission, Council, and governing boards may lease, or offer to lease, as lessee, any grounds, buildings, office or other space in the name of the state.

13.2. The Commission, Council, and governing boards have sole authority to select and to acquire by contract or lease all grounds, buildings, office space or other space, the rental of which is required necessarily by the Commission, Council, or institutions.

13.3. Before executing any rental contract or lease, the Commission, Council, or a governing board shall determine the fair market value for the rental of the requested grounds, buildings, office space or other space, in the condition in which they exist, and shall contract for or lease the premises at a price not to exceed the fair market value.

13.4. The Commission, Council, and each governing board may enter into long-term agreements for buildings land and space for periods longer than one fiscal year but not to exceed forty years.

13.5. Any lease shall contain, in substance, all the following provisions:

13.5.a. The Commission, Council, or governing board, as lessee, has the right to cancel the lease without further obligation on the part of the lessee upon giving thirty days' written notice to the lessor at least thirty days prior to the last day of the succeeding month;

13.5.b. The lease is considered canceled without further obligation on the part of the lessee if the Legislature or the federal government fails to appropriate sufficient funds for the lease or otherwise acts to impair the lease or cause it to be canceled; and

13.5.c. The lease is considered renewed for each ensuing fiscal year during the term of the lease unless it is canceled by the Commission, Council, or governing board before the end of the then current fiscal year.

13.6. The Commission, Council, or institution that is granted any grounds, buildings, office space or other space leased in accordance with this section may not order or make permanent changes of any type thereto, unless the Commission, Council, or governing board has first determined that the change is necessary for the proper, efficient and economically sound operation of the institution. For purposes of this section, a "permanent change" means any addition, alteration, improvement, remodeling, repair or other change involving the expenditure of state funds for the installation of any tangible thing that cannot be economically removed from the grounds, buildings, office space or other space when vacated by the institution.

13.7. Leases and other instruments for grounds, buildings, office or other space, once approved by the Commission, Council, or governing board, may be signed by the chief executive officer, or designee, of the Commission, Council, or institution.

13.8. Any lease or instrument exceeding $100,000 annually shall be approved as to form by the Attorney General. A lease or other instrument for grounds, buildings, office or other space that contains a term, including any options, of more than six months for its fulfillment shall be filed with the State Auditor.

§133-12-14. Real Property Contracts and Agreements.

14.1. Except as provided elsewhere in the capital projects law, any purchase of real estate, any lease-purchase agreement and any construction of new buildings or other acquisition of buildings, office space or grounds resulting from these transactions, shall be approved by the Commission or Council, and provided to the Joint Committee on Government and Finance for prior review, if the transaction exceeds $1 million.

14.2. The Commission, Council, and each governing board shall provide the following to the Joint Committee on Government and Finance:

14.2.a. A copy of any contract or agreement to which it is a party for real property if the contract or agreement exceeds $1 million; and

14.2.b. A report setting forth a detailed summary of the terms of the contract or agreement, including the name of the property owner and the agent involved in the sale.

14.3. The copy and report required by 14.2.b. of this section shall be provided at least thirty days before any sale, exchange, transfer, purchase, lease-purchase, lease or rental of real property, refunding of lease-purchases, leases or rental agreements, construction of new buildings, and any other acquisition or lease of buildings, office space or grounds.

14.4. A contract or agreement that is for the lease purchase, lease or rental of real property, where the costs of real property acquisition and improvements are to

be financed, in whole or in part, with bond proceeds, may contain a preliminary schedule of rents and leases for purposes of review by the committee.

14.5. For renewals of contracts or agreements required by this section to be reported, the Commission, Council, or governing board shall provide a report to the Joint Committee on Government and Finance setting forth a detailed summary of the terms of the contract or agreement, including the name of the property owner.

14.6. The Joint Committee on Government and Finance shall meet and review any contract, agreement or report within thirty days of receipt.

14.7. Each governing board shall provide to the Commission or Council a copy of any contract or agreement submitted to the Joint Committee on Government and Finance pursuant to this section.

§133-12-15. Authorization for Sale Lease-Back.

15.1. A governing board may sell any building that is on unencumbered real property to which the board holds title and may lease back the same building if the governing board obtains approval of the Commission or Council before incurring any obligation. The board shall deposit the net proceeds of the transaction into a special revenue account in the State Treasury to be appropriated by the Legislature for the use of the institution at which the real property is located. Prior to such action, the board shall take the following steps:

15.1.a. Provide for the property to be appraised by two licensed appraisers. The board may not sell the property for less than the average of the two appraisals; and

15.1.b. Retain independent financial and legal services to examine fully all aspects of the transaction.

15.2. The sale may be made only to a special purpose entity that exists primarily for the purpose of supporting the institution at which the building is located.

§133-12-16. Construction and Operation of Auxiliary Facilities; Fees for Auxiliary Enterprises.

16.1. A governing board may provide, construct, erect, improve, equip, maintain and operate auxiliary facilities, as defined in section three of this rule for students, employees and visitors on land it owns or leases.

16.2. The cost of construction, erection, improvement or equipment may be paid with the proceeds of revenue bonds authorized by this code or by any other financing method provided in law and approved by the Commission or Council. The issuance of revenue bonds is subject to the approval of the Commission or Council.

16.3. A governing board may engage experts in engineering, architecture and construction and other experts as it considers necessary and may specify the payment and contract terms which are included in the cost of the project.

16.4. A governing board may promulgate and adopt rules and charge fees for use of its facilities. The fees and other amounts charged shall be structured so as to generate funds sufficient for the following purposes:

16.4.a. To maintain payment of the principal of and interest on any revenue bonds, and for reserves for the revenue bonds;

16.4.b. To operate the auxiliary enterprise;

16.4.c. To satisfy annual building renewal formula requirements; and

16.4.d. To build a reserve for major renovation or replacement.

16.4.e. All moneys collected for the use of auxiliary facilities shall be paid to the credit of and expended by the governing board of that institution in accordance with West Virginia Code §18B-10-13.

§133-12-17. Condemnation Generally.

17.1. The Commission, Council, and governing boards each may acquire land or buildings by condemnation for the use and benefit of any state institution under its jurisdiction. A condemnation proceeding conducted pursuant to this section is governed by Chapter 54 of the West Virginia Code.

17.2. The Commission, Council, and governing boards each may condemn any interest, right or privilege, land or improvement, which in its opinion is necessary, in the manner provided by law for the acquisition by this state of property for public purposes. The state is under no obligation to accept and pay for any property condemned and may pay for the property only from the funds provided for that purpose.

17.3. In any proceeding to condemn, the order shall be made by the court having jurisdiction of the suit, action or proceedings. A bond or other security may be required by the court securing the property owner against any loss or damage to be sustained by reason of the state's failure to accept and pay for the property. The bond or security may not impose liability or debt on or of the state as contemplated by the Constitution of the State in relation to state debt.

Appendix B

Financial Feasibility Study
West Virginia Higher Education Policy Commission
West Virginia Council for Community and Technical College Education

This Financial Feasibility Study is being submitted for the following project (must be submitted 60 days in advance of the deadline for submitting agenda items to the Commission or Council):

Submission Date: _____

Name of Institution: _____

Project Name: _____

Project Amount: $_____

Project Type (check one):

- ☐ Education & General (E&G) Project
- ☐ Auxiliary Enterprise Project
- ☐ Property Acquisition
- ☐ Public/Private Development or Design/Build
- ☐ Other (specify): _____

Proposed Financing Arrangement (check one):

- ☐ No Debt – Paid from Institution Cash On-Hand or from Reserves
- ☐ Revenue Bond by Institution
- ☐ Capital Lease
- ☐ Alternative Financing Method
- ☐ Other (specify): _____

Requested Type of Financing* (check one):

- ☐ Educational & General (E&G) Capital Fee Financing — Amount: $_____
- ☐ Auxiliary & Auxiliary Capital Fees Financing — Amount: $_____
- ☐ Debt secured by revenue stream – identify source and provide Code citation that authorizes the pledge of this revenue stream for issuance of revenue bonds or to incur debt. — Amount: $_____

***NOTE: Should not exceed 30 years.**

Prepared by (please print):

Name: _____

Title: _____

E-mail: _____

Phone: _____

Fax: _____

The attached Financial Feasibility Study has been prepared using information and projections believed to be reliable and accurate for the purpose of estimating the demand and affordability of the proposed capital project.

Signature (Chief Financial/Fiscal Officer) Date

Forward original to:
West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard, East, Suite 700
Charleston, WV 25301
Attn: Ed Magee
Email: Edward.magee@wvhepc.edu

Section 1 - General Information – To be completed for all projects.

Describe the project in sufficient detail so that an uninformed reader has a clear understanding of the project. Indicate whether the project is new construction, renovation/addition to an existing facility or is property acquisition.

Describe how the project is essential to fulfilling the institution's mission. Address the alternatives available if the project is not undertaken.

Is the project identified in the institution's capital appropriation request for this fiscal year? If yes, what is its priority in relation to the other projects? If no, why was it not included and why is being proposed now?

Is the project included in the institution's approved Ten Year Campus Masterplan? If so, what is the priority in relation to other projects in Masterplan and what is the estimated project cost identified in the Masterplan? If it is not included in the Masterplan, why is it being proposed ahead of the projects in approved in the Masterplan?

Describe the effect the project will have on those students or users who will financially support the project.

Explain how the project will affect the institution's need for student financial aid.

Describe the probable effects of the project on the community and environment, including changes to the value of property as a result of the project.

Explain how the project and its impact have been conveyed to local officials and their reaction/response.

Describe any other positive or negative effects the project may have.

Briefly describe the financing proposal. Indicate if this proposal is for a revenue bond financing, a capital lease or lease purchase, or some other less traditional financing arrangement. Indicate anticipate closing date.

Are specific revenues planned to support debt service or lease payments? (If so, please complete Section 3.)

___ Yes ___ No

What impact does the construction of this project have on the institution's compliance with federal Title IX requirements?

Private Use

Will any person or entity other than the institution provide (directly or indirectly) any part of debt service on the portion of the bonds issued for the project? For example, will a private business entity, private foundation or federal agency be required (or expected) to make an annual contribution toward the payment of debt service.

___ Yes ___ No. If yes, please identify the person or entity and the percent of debt service to be provided.

Do you anticipate that any person or entity other than the institution will have a contractual right, different from the rights available to the general public or students, to use any part of the project or to use or buy goods or services produced at the project? For instance, have you contracted parking spaces in a parking deck to a nearby corporate office?

___ Yes ___ No. If yes, briefly summarize the planned contractual agreement.

Do you contemplate any part of the project being managed or operated by any person or entity other than the institution under a management or service contract, incentive payment or other "privatized"

arrangement? Examples include contracts for food service, parking service, dormitory management, bookstore management, etc.

___ Yes ___ No. If yes, summarize the anticipated contractual arrangement (i.e., contract term, renewal options, compensation arrangements, etc.).

Note: These arrangements may impact whether the project is eligible for tax-exempt financing. Once tax-exempt bonds have been issued, entering into this type of contract or arrangement may affect the bond's tax-exempt status and as a result, could have an adverse effect on the bondholders. So long as the bonds are outstanding, the terms of any such arrangement must be reviewed and approved by the Bond Counsel and the Policy Commission staff prior to the execution of any contract.

Property Acquisition by Purchase, Lease or Lease Purchase

Property acquired by purchase, lease or lease/purchase exceeding $1 million ($15 million for Marshall University and West Virginia University) must be approved in advance by the Commission or Council as applicable.

What is the purchase price of the property? What is the appraised value of the real property and improvements? The institution must engage a licensed appraiser experienced and certified for the property being appraised. Attach a copy of the appraisal.

Does the institution have a Phase 1 Environmental Study for the property? If so, please provide a copy. Does the Phase 1 Study identify the need for a Phase 2 Environmental Study? If so, please provide a copy to the Phase 2 Study.

___ Yes ___ No. If yes, please provide a copy. If no, this study must be performed by a firm experienced and qualified to perform this study prior to purchase. Include contact person with WV DEP.

Has a title search been performed? If so, are there any issues preventing the institution obtaining a general warranty deed? Are there any easements, encroachments, or encumbrances affecting the property? A title search must be performed prior to purchase.

___ Yes ___ No. If yes, please provide a copy. If no, a title search must be performed prior to purchase.

Is the property within the property acquisition boundaries of the approved Ten Year Campus Masterplan?

___ Yes ___ No. If no, the acquisition must be approved in advance by the Commission or Council as applicable no matter the dollar value.

Has there been an architectural/engineering firm retained for any portion of the project (feasibility study, site selection, schematic drawings)?

___ Yes ___ No.

If so, was the firm selected and retained following West Virginia Code §18B-19-7?

___ Yes ___ No.

If a firm has been selected, will this firm be retained as the project continues?

___ Yes ___ No.

If a selected firm will not be retained as the project continues, will there be a separate RFP distributed to select an Architectural /Engineering firm for the next phase?

___ Yes ___ No.

If a design firm has been selected for schematic design and/or feasibility study and/or site selection are they aware of their role, and that they will have their responsibility either fulfilled or will continue upon completion of this phase? Explain if necessary.

___ Yes ___ No.

If a firm has been retained, have the necessary drawings and specifications been submitted to the HEPC Central Office?

___ Yes ___ No.

Does this project fall under West Virginia Code §18B-19-8 and was it submitted as required?

___ Yes ___ No.

If this project is taking precedent over a deferred maintenance project submitted previously, explain here.

Section 2 – Cost Information (complete for all projects)

Do you anticipate the need for capitalized interest on any bond financing (i.e., to pay interest during construction)? If so, for how many months? When is construction to begin and completed? (Interest cannot be capitalized more than six months post construction.)

Itemize the capital costs of the project. Estimate the costs of issuance at 2% of the cost of the project if it is to be financed by a bond issue. Please subtotal project costs net of the 2% cost of issuance and then show a gross cost of project including the cost of issuance. Note that the total cost should be used as the AMOUNT BORROWED field of the worksheet. Attach the CO-2 estimate or further estimate of project cost, if available. (Note: The term of any financing plan or arrangement should be for 30 years or less.)

Capital Costs	Amount Borrowed
A&E	$
Land Acquisition	
Site work /Utilities	
Construction	
Equipment / Furnishings	
Other Costs	
Contingencies	
Subtotal:	$
Costs of Issuance (2% of Subtotal Above)	
Capitalized Interest (Estimate)	
Debt Service Reserve Fund	
Original Issue Discount	
Management Fee	
Other (specify)	
Subtotal:	$
Less Planned Equity Contribution by Institution	
Total:	$

What is the anticipated useful life of the project?

Discuss the need for a Reserve Fund to support the proposed project, any anticipated uses of the reserve during the life of the bonds, and the plan for replenishment of the reserve. The Reserve Fund Limit in the spreadsheet should be approximately 10% of the project cost.

List and describe any initial Non-Recurring Costs related to the project and the source of funding for each of these items.

List and estimate the Incremental Annual Operating Expenses. Provide any supporting documentation and illustrate how your estimate was made. These expenses include personnel costs, utilities, contractual services, supplies and materials, indirect costs, equipment, etc.

Section 3 - Revenue Information. (Complete for all revenue-producing projects.)

Describe the Revenue Sources that will be used for payment of debt service and the expenses associated with these revenues. Consider what other expenses are planned to be supported by the revenues, and how much revenue will actually be available for debt service. (Note: The term of any financing plan or arrangement should be for 30 years or less.)

If revenues will be derived from a group of similar facilities (a system) and an increase in system revenues will be used to support the debt, provide justification for any system contribution and any marginal increase in system-wide fees.

If revenues will be derived from just one facility of several similar facilities in a campus system, show all fees for all similar facilities and justify any differential in pricing between the facilities.

Will project revenues or revenues pledged to the payment of debt service be available prior to completion of the project? Describe the timing of revenues and when they will be available and sufficient to begin servicing the debt.

What studies have been completed to demonstrate the demand for the facility and the reliability of the revenue stream? (Attach copies if available.)

If any portion of the revenues are already pledged or otherwise committed to other debt service payments, provide a schedule of debt service payments (by issue) and cumulatively. Clearly identify the portion of the revenue source that is committed or being used to pay debt service.

If any revenues are projected to increase, explain how the projections were calculated. Do not use an automatic growth rate.

If institutional reserves are to be used to service the debt, include the source of funds, balances for the last five years, and impact on future balances. Identify the authorization for using these funds to pay debt service and other costs.

If any amounts currently used for debt service are expected to be available and used for debt service on this project (i.e., the existing debt will be retired), provide the name(s) of the existing project(s), the bond series, and the annual amount to be available. Address the status of the existing facility's physical condition and plans for repair or maintenance. Conversely, explain why any such amounts scheduled to be available are not planned for use for debt service on this project.

Provide a copy of the institution’s debt policy approved by the Board of Governors.

Complete a revenue component spreadsheet.

Section 4 - General Financial Condition - Complete this section for all projects.

Provide the following FTE enrollment and admissions information.

	Last Five Years				
Enrollment	FY _____	FY _____	FY _____	FY _____	FY _____
• Undergraduate					
• Graduate & 1st Prof.					
TOTAL					
• On-Campus					
• Off-Campus					
Admissions					
• Applications Received					
• Applications Accepted					
• Students Enrolled					
• Acceptance Rate					
• Matriculation Rate					

What is the estimated enrollment change resulting from this project?

Provide the following ratios and Composite Financial Index for the current year budget as adjusted for the project, the current year budget excluding the new project, and the two preceding fiscal years.

	Adjusted Budget	Budgeted	Actual	Actual
	FY _____	FY _____	FY _____	FY _____
Ratios (Excluding OPEB liability):				
• Primary Reserve Ratio				
• Net Operating Revenue Ratio				
• Return on Net Assets				
• Viability Ratio				
Composite Financial Index				

Section 5 - Capital Lease Projects – Complete only if the financing involves a capital lease.

Discuss the alternatives that were considered before deciding that the capital lease structure was the best option.

Who is the Lessor (full name and address)? Who is the Lessee (full name and address)?

Who will manage the facility during and after construction?

Who will be issuing bonds or otherwise financing the project? Will it be tax-exempt debt?

If debt is issued, what portion will not be tax-exempt?

Section 6 - Public/Private Partnership & Design Build – Complete this section only if the financing involves a public/private partnership or is a design build project.

Discuss the alternatives that were considered before deciding on a public/private partnership or design build as the best option.

Design build projects are subject to the "Design Build Procurement Act," West Virginia Code §5-22A. The provisions of this Act must be used to select design-builders for authorized projects that are constructed and owned, potentially owned, or ultimately owned by any agency/state institution of higher education. Please describe your plans for complying with the Design Build Procurement Act.

If this is a public/private partnership, please describe the nature of the arrangement and the parties involved.

What type of financing vehicle will be used to fund the project? (Please describe in detail.)

Section 7 - Sustainability and Energy Efficiency

Do you have access to the most current version of the HEPC's standards for sustainability and energy efficiency?

___ Yes ___ No

Will this project be proposed as a LEED project?

___ Yes ___ No

If it is to be a LEED project, have you engaged with the necessary professionals to enter the process?

___ Yes ___ No

If you have not engaged the necessary professionals, do you need assistance?

___ Yes ___ No

If is not proposed as a LEED project are you aware of the minimal guidelines required to insure the project is completed using the most current guidelines and standards? (ASHRE 90.1, LEED – see USGBC.org website)

Have you explored any potential existing energy rebates available from your local utilities specific to this project?

Do you need further assistance in proceeding with any of the answers required in this application?

Definition of Terms

Auxiliary and Auxiliary Capital Fees Bonds (W. Va. Code §18B-10): Revenue bonds issued to finance the planning, design, construction and equipping of an auxiliary facility i.e., Student Unions and Recreation Facilities, Residence Halls, Dining Halls, Athletic Facilities, Bookstores, Faculty and Staff Housing and other facilities not considered E&G Facilities. Auxiliary fees are pledged to pay debt service for these revenue bonds.

Capital Lease: In accordance with the Financial Accounting Standards Board (FASB), capital leases are defined as leases which meet any one (or more) of the following criteria:

- Transfer of ownership of the property to the lessee at the end of the lease term;
- Bargain purchase option at the end of the lease term;
- Lease term equal to 75% or more of the estimated economic life of the leased property; and
- Present value of the net minimum lease payments equal to or exceeding 90% of the fair market value of the property.

Capital leases are considered long-term obligations for accounting purposes.

Capitalized Interest: Interest to be paid on the bonds during the period of construction that is financed as part of the bond issue (i.e., paid with bond proceeds). Capitalizing interest increases the overall cost of borrowing, but may be necessary in cases where project revenues are to be used to pay debt service. Conversely, where revenues are already being collected (i.e., a fee or fee increase has already been implemented), the use of capitalized interest may not be appropriate.

Educational and General (E&G) Capital Fees Bonds (W. Va. Code §18B-10): Revenue bonds issued to finance the planning, design construction and equipping of E&G facilities Fees collected by the institutions to support existing and future system-wide debt and institutional debt, capital projects funded on a cash basis, campus and building renewal, and repairs and alterations of E&G Facilities.

Educational and General (E&G) Facility: A building or structure used for instruction and instructional support purposes, and includes classroom, laboratory, library, computer laboratory, faculty and administrative office and other academic support spaces.

Incremental Annual Operating Expenses: The increase in operating costs attributable to the project. For example, a new dormitory added to a dormitory system would presumably increase system operating costs (e.g., supplies & material, utilities, personnel (janitorial, maintenance), equipment, etc.)

Non-recurring costs: One-time project costs (e.g., land acquisition, special utility fees, etc.) required for project completion.

Other: Debt secured by another revenue stream than those identified above. Please identify source and provide Code citation that authorizes the pledge of this revenue stream for issuance of revenue bonds or to incur debt.

Private Use: Private use means any use (directly or indirectly) by a trade or business that is carried on by persons or entities other than state or local governmental entities. Such use could involve ownership, management, service or incentive payment contracts, research agreements, leases, subleases, loans, or any other arrangement that conveys special legal entitlements or economic benefit to the non-governmental entity from the beneficial use of the project.

Reserve Fund: An amount set aside, usually from project revenues or bond proceeds, to mitigate the impact of interruptions in the ability of the project to generate sufficient net revenues to pay debt service (e.g., debt service reserve, repair and replacement reserve). In certain circumstances, the presence of a reserve can enhance the credit. For the purposes of the feasibility study, reserve funds are generally for debt service and are funded from project or institutional revenues. 9(c) projects are expected to generate sufficient revenues to fund a reserve at an amount equal to approximately 10% of the amount financed.