

LEGISLATIVE OVERSIGHT COMMISSION ON EDUCATION ACCOUNTABILITY

Senate Finance Committee Room
September 8, 2014

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West Virginia
Higher Education
Policy Commission



West Virginia Higher Education Policy Commission

**Report to the Legislative Oversight Commission
on Education Accountability**

September 8, 2014

**Series 12, Legislative Rule
Capital Project Management**

**TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 12
CAPITAL PROJECT MANAGEMENT**

§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. --
- 1.4. Effective Date. --
- 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:

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

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, refundings 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.

§133-12-18. Reporting.

- 18.1. By July 1, 2014 and annually thereafter, the Commission and Council shall provide a general status report to the Legislative Oversight Commission on Education Accountability on the progress being made in implementing the state-wide capital development plan and on the progress of the governing boards in implementing the objectives of institutions' campus development plans.
- 18.2. Beginning November 1, 2016 the governing boards shall report to the Commission or Council on an annual basis their progress in implementing the objectives of institutions' campus development plans. Said reports shall include a copy of the campus development plan and their specific progress in meeting the objectives of the plan. For objectives not met, the institution shall provide a reasonable timeline to meet said objectives and a method to measure their progress in the future toward meeting the objectives.

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

FINANCIAL FEASIBILITY STUDY

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 *(should not exceed 30 years)*:

- 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: \$ _____

Prepared by:

Name: _____

Title: _____

E-mail: _____

Telephone No.: _____

Fax No.: _____

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)

Forward original to:

West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard, East, Suite 700
Charleston, WV 25301
Attn: Richard Donovan
Email: Donovan@hepc.wvnet.edu

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

1. 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.

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

3. 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?

4. 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?

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

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

7. 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.

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

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

10. 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.

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

___ Yes ___ No

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

Private Use

13. 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.

14. 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.

15. 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 affect 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.

16. 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.

17. 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.

18. 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 preformed prior to purchase.

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

19. 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.

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

Yes No.

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

Yes No.

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

Yes No.

23. 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.

24. 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.

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

Yes No.

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

___ Yes ___ No.

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

Section 2 – Cost Information (complete for all projects)

28. 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)*

29. 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.)*

A & E	\$
Land Acquisition	
Sitework/Utilities	
Construction	
Equipment/Furnishings	
Other Costs	
Contingencies	
Subtotal	0
Costs of Issuance (2% of Subtotal above)	
Capitalized Interest (Estimate)	
Debt Service Reserve Fund	
Original Issue Discount	
Management Fee	
Other (specify)	
Subtotal	0
Less Planned Equity Contribution by Institution	

30. What is the anticipated useful life of the project?

31. 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.

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

33. 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)

34. 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.*)

35. 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.

36. 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.

37. 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.

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

39. 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.

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

41. 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.

42. 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.

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

Using the information described above, complete Spreadsheet #2 – Revenue Components

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

Provide the following FTE enrollment and admissions information

	Last 5 years				
Enrollment	FY __	FY __	FY __	FY __	FY __
Undergraduate					
Graduate & 1st Prof.					
Total	0	0	0	0	0
On-Campus					
Off-Campus					
Admissions					
Applications Received					
Applications Accepted					
Students Enrolled					
Acceptance Rate	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Matriculation Rate	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

44. What is the estimated enrollment change resulting from this project?

45. 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 FY 20__	Budgeted FY 20__	Actual FY 20__	Actual FY 20__
Ratios (Excluding OPEB liability):				
Primary Reserve Ratio	0.000	0.000	0.000	0.000
Net Operating Revenue Ratio	0.000	0.000	0.000	0.000
Return on Net Assets	0.000	0.000	0.000	0.000
Viability Ratio	0.000	0.000	0.000	0.000
 Composite Financial Index	 0.00	 0.00	 0.00	 0.00

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

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

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

48. Who will manage the facility during and after construction?

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

50. 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.

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

52. 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.

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

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

Section 7 - Sustainability and Energy Efficiency

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

Yes No

56. Will this project be proposed as a LEED project?

Yes No

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

Yes No

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

Yes No

59. 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)

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

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

Definitions 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:

- 1) Transfer of ownership of the property to the lessee at the end of the lease term;
- 2) Bargain purchase option at the end of the lease term;
- 3) Lease term equal to 75% or more of the estimated economic life of the leased property; and
- 4) 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.



West Virginia Higher Education Policy Commission

Report to the Legislative Oversight Commission on Education Accountability

September 8, 2014

**Series 58, Legislative Rule
Nursing Scholarship Program**

**TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 58
NURSING SCHOLARSHIP PROGRAM**

§133-58-1. General.

1.1. Scope.--This rule establishes guidelines and procedures which will direct the operation of the Nursing Scholarship Program.

1.2. Authority. --West Virginia Code §18B-1-6 and §18C-3-4.

1.3. Filing Date.

1.4. Effective Date.

§133-58-2. Purpose.

2.1. This rule provides financial aid to nursing professionals and students who agree to practice in hospitals and other health care institutions or teach in state nursing programs in West Virginia.

§133-58-3. Funding and Administration.

3.1. A special revenue account known as the Center for Nursing Fund in the State Treasury is to be administered by the Vice Chancellor for Administration under the West Virginia Higher Education Policy Commission (Commission). In addition to the provision contained in West Virginia Code §30-7B-2 allowing the Center for Nursing to utilize the account to perform its duties, the account shall be used by the Commission to fund awards for the Nursing Scholarship Program for students in nursing programs. The account is funded from the following sources:

3.1.a A supplemental licensure fee, not to exceed \$10 per year, to be paid by all nurses licensed by the Board of Examiners for Registered Professional Nurses.

3.1.b. Repayments, including interest as set by the Vice Chancellor for Administration, collected from recipients who fail to practice or teach in West Virginia under the terms of the scholarship agreement; and

3.1.c. Any other funds from any source as may be added to the account.

3.2. The Vice Chancellor for Administration in consultation with the board of directors of the West Virginia Center for Nursing shall be responsible for awarding scholarships to nursing students and for collecting scholarship repayments.

§133-58-4. Eligibility Criteria.

4.1. In order to be eligible for the licensed practical nurse (LPN) or registered nurse (RN) scholarship award, an applicant must meet the following minimum requirements:

- 4.1.a. Enrollment in an accredited West Virginia LPN or RN program.
 - 4.1.b. Be in good academic standing with his or her academic institution.
 - 4.1.c. For the LPN award, have completed at least fifty (50) percent of the curriculum required to receive an LPN diploma.
 - 4.1.d. For the RN award, have completed at least fifty (50) percent of the curriculum required to receive an RN degree.
 - 4.1.e. For the LPN award, sign an agreement to work as a LPN in West Virginia for one (1) year following completion of program.
 - 4.1.f. For the RN award, sign an agreement to teach or work as a RN in West Virginia for two (2) years following completion of program.
- 4.2. In order to be eligible for the nursing education master's degree or doctoral nursing scholarship award, an applicant must meet the following minimum requirements:
- 4.2.a. Be employed as an educator in a West Virginia school of nursing.
 - 4.2.b. Be accepted into a master's degree nursing program or accepted into an approved doctoral program at the time of application.
 - 4.2.c. Be continuously employed as an educator in a West Virginia school of nursing while pursuing his or her master's or doctoral degree.
 - 4.2.d. Sign an agreement to teach in a West Virginia school of nursing for two (2) years following completion of the program.
- 4.3. In order to be eligible for the LPN teaching certificate scholarship award, an applicant must meet the following minimum requirements:
- 4.3.a. Be accepted into an West Virginia LPN teaching certificate program.
 - 4.3.b. Be continuously employed as an LPN educator by a West Virginia LPN program while pursuing his or her LPN teaching certificate.
 - 4.3.c. Sign an agreement to teach for one (1) year upon completion of the LPN teaching certificate program in a West Virginia LPN program.

§133-58-5. Application Process.

- 5.1. A student must apply for the award utilizing the Commission's application process, which may include the submission of an application, letters of recommendation, academic transcripts, and programmatic and financial information related to the student's academic program.

§133-58-6. Selection Process.

6.1. The Vice Chancellor for Administration, in consultation with a Nursing Program Scholarship application review committee administered by the West Virginia Center for Nursing, shall select recipients for the Nursing Scholarship Program.

6.2. The number of awards will be determined by the availability of funds in the program in any given program cycle.

6.3. Priority for scholarships shall be given to in-state residents.

6.4. Applicants who previously received an award from the Nursing Scholarship Program are eligible to reapply for the scholarship in subsequent program cycles.

6.5. Awards will be processed without regard to age, gender, race, disability, national origin, sexual orientation, veteran's status or religion.

6.6. Nothing in this rule shall be construed as granting or guaranteeing any applicant any right to such a scholarship.

§133-58-7. Scholarship Award Levels.

7.1. Scholarship awards are available for students enrolled in accredited nursing programs in West Virginia. An award for any student may not exceed the full cost of education for program completion. The maximum amount for individual awards is as follows:

7.1.a. An award of up to \$3,000 for a student in a licensed practical nurse education program. A recipient is required to practice nursing in West Virginia for one (1) year following program completion.

7.1.b. An award of up to \$7,500 for a student who has completed (at least) one-half of a registered nurse education program. A recipient is required to teach or practice nursing in West Virginia for two (2) years following program completion.

7.1.c. An award of up to \$15,000 for a student in a nursing education master's degree program or a doctoral nursing program. A recipient is required to teach in West Virginia for two (2) years following program completion.

7.1.d. An award of up to \$1,000 per year for a student obtaining a licensed practical nurse teaching certificate. A recipient is required to teach in West Virginia for one (1) year per award received.

§133-58-8. Scholarship Provisions and Agreement.

8.1. Each scholarship recipient must be willing to sign a scholarship agreement, which shall fully disclose the terms and conditions under which a recipient is required to teach or practice nursing in West Virginia. No Nursing Scholarship Program funds will be disbursed until a signed agreement has been received by the Vice Chancellor for Administration.

8.2. The scholarship agreement shall contain the following provisions:

8.2.a. The recipient will agree to teach or practice nursing in West Virginia for the period of time established by this rule. It is the recipient's responsibility to provide the Vice Chancellor for Administration with evidence of compliance with the teaching and/or nurse practicing requirements.

8.2.b. Upon completion of his or her training, a recipient will receive a grace period of up to six months to locate employment that qualifies for the service requirement.

8.2.c. If a recipient fails to complete his or her training or fails to teach or practice nursing as required by the scholarship agreement, he or she will be required to make monetary repayment of the scholarship.

8.2.d. A recipient who receives an award in multiple award cycles from the Nursing Scholarship Program may not concurrently complete the service requirements associated with the awards.

§133-58-9. Repayment of Scholarship.

9.1. If a recipient does not fulfill the service requirement, he or she shall be obligated to repay to the Commission the principal and the interest that accrues on his or her scholarship award. The recipient will enter into a repayment agreement with the Commission governing the terms of his or her repayment. Interest will be charged at a rate prescribed by the Vice Chancellor for Administration and will begin to accrue at the time the repayment period begins.

9.2. If a recipient fails to complete his or her training, interest will accrue from the day on which the recipient withdrew from his or her training program.

9.3. If a recipient fulfills a portion of the service requirement, interest will accrue from the day on which the recipient ceased to fulfill the service requirement.

9.4. In the event a recipient fails to fulfill the training or service requirements, payment in full will normally be expected sixty (60) days from the date of non-compliance. In the event of extenuating circumstances, the Vice Chancellor for Administration may approve an alternate payment plan.

9.5. The repayment period may be extended during periods of deferment.

9.6. As permitted by federal law, applicable state regulations, and the terms of the scholarship agreement, the Vice Chancellor for Administration may assess reasonable collection costs, late charges and attorney fees to delinquent accounts.

9.7. The Commission shall exercise due diligence in the collection of amounts owed. Accounts more than one hundred and twenty (120) days past due may be referred to a collection agency and delinquent amounts may be reported to a credit bureau.

§133-58-10. Forgiveness.

10.1. In the event of a recipient's death or documented permanent and total disability, the unpaid amount of the repayment (principal, interest and any collection costs, late charges, and attorney fees) shall be forgiven.

10.2. To be eligible for forgiveness, a recipient or the recipient's estate must apply for and receive approval from the Vice Chancellor for Administration.

§133-58-11. Deferment.

11.1. To be eligible for a deferment, a recipient must apply for and receive approval from the Vice Chancellor for Administration. A deferment may be granted for periods of documented enrollment and

attendance as a regular student in a full-time course of study at an accredited institution of higher education or for during documented active duty service, not in excess of four years, as a member of the armed services of the United States. Deferments also may be considered for other conditions and circumstances including documented disability, unemployment, or other economic hardship.

11.2. If the Vice Chancellor for Administration approves the deferment request, a student may defer making scheduled installment payments and will not be liable for any interest that might otherwise accrue during any period that he or she is enrolled and attending as a regular student in a full-time course of study at an accredited institution of higher education or while serving on active duty, not in excess of four (4) years, as a member of the armed services of the United States.

11.3. In the event of non-compliance with the deferment terms, payment in full is due sixty (60) days from the date of non-compliance. In the event of extenuating circumstances, the Vice Chancellor for Administration may approve an alternate payment plan.

§133-58-12. Appeal.

12.1. An applicant may appeal in writing the denial of an initial award or renewal award or any other decision within fifteen (15) days of receiving notification to the Senior Director of Financial Aid. The Director may consult with an appeals committee comprised of financial aid staff, and the Director shall issue a written decision upholding or reversing the initial decision within fifteen (15) days of receipt of the appeal.

12.2. An applicant or institution may further appeal in writing the decision of the Senior Director of Financial Aid within fifteen (15) days of receipt of notification of the decision to the Vice Chancellor for Administration. The Vice Chancellor for Administration shall issue a written decision upholding or reversing the Director's decision within twenty (20) days of receipt of the appeal.

12.3. Any appeal made should set forth in detail the grounds for the appeal. The decision rendered at each level shall address in writing each ground raised.



West Virginia
Higher Education
Policy Commission



**Report to the Legislative Oversight Commission
on Education Accountability**

September 8, 2014

Report on Services to Student Veterans (§18B-4-9)



Bruce L. Berry, M.D.
Chair

Paul L. Hill, Ph.D.
Chancellor

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West Virginia Community and Technical College System

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Clarence "Butch" Pennington
Chair

James L. Skidmore
Chancellor

August 27, 2014

The Honorable Jeffrey V. Kessler
President
West Virginia State Senate
Room 227M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

The Honorable Tim Miley
Speaker
West Virginia House of Delegates
Room 228M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Dear Mr. President and Mr. Speaker:

In accordance with West Virginia Code §18B-4-9, we are pleased to provide the following report regarding services and facilities for student veterans enrolled in West Virginia's public colleges and universities. We appreciate the Legislature's ongoing support of efforts to improve veterans' access to and success in higher education.

The Office of Veterans Education and Training Programs (OVET) of the West Virginia Higher Education Policy Commission (Commission) and the West Virginia Council for Community and Technical Education (Council) have continued to support legislative intent to provide "veteran-friendly" services to student veterans throughout the State. The Commission is designated by the Governor as the "state approving agency" for West Virginia under Title 38, United States Code. OVET works closely with its counterparts at the Department of Veterans Affairs (VA) to ensure that educational programs offered in the State of West Virginia are compliant with State and Federal laws and regulations and therefore approved for receipt of VA education benefits.

The following table includes the sections of the law and the corresponding activities and results we have compiled through a survey of West Virginia public colleges and universities.

W. VA. CODE §18B-4-9	ACTIVITIES/RESULTS
(1) Establishing veteran-friendly community and technical college degree programs, which recognize and award academic credit toward degrees for various types of technical and vocational military training and experience;	<p>All institutions have similar methods of granting academic credits as appropriate. The methodology generally involves evaluation of a student veteran’s DD 214 (Discharge Certificate) and a MOS (military occupation specialty) based transcript recognized by the American Council on Education.</p> <p>HIGHLIGHT – Mountwest Community and Technical College was ranked #1 in the country by Military Times magazine for best Career and Technical Colleges in 2014. West Virginia University at Parkersburg ranked 6th and Blue Ridge Community and Technical College ranked 35th.</p>
(2) Developing policies for each state institution of higher education to grant academic credit for Armed Forces experiences;	<p>As noted above, all institutions have similar methods of granting academic credits when appropriate.</p> <p>HIGHLIGHT – The following four-year institutions received the rating of “Military Friendly” for 2014 by an organization using a rigorous set of standards with results then verified by Ernst and Young: Concord University, Fairmont State University, Glenville State College, Marshall University, Potomac State College of WVU, Shepherd University, West Liberty University, West Virginia State University, and West Virginia University.</p>
(3) Developing programs to encourage student veterans to share their specialized experience and knowledge gained through military service by making presentations in class, public school programs and local community organizations;	<p>Most institutions have developed methods of encouraging and allowing student veterans to share their experiences.</p> <p>HIGHLIGHT – West Virginia University offers a public speaking class section for student veterans and the public is invited to listen to the student veterans present and share their experiences.</p>
(4) Establishing and sponsoring an organization for student veterans on campus and encouraging other veteran-friendly organizations;	<p>Nearly all institutions now have student veteran organizations on campus.</p> <p>HIGHLIGHT – Shepherd University hosts a student veteran organization that began the academic year with a meet-and-greet event for veterans and included free meals. The student veteran group also holds bi-monthly “coffee breaks” in an area of their student lounge designated for veterans.</p>
(5) Appointing and training specific faculty within each degree program or major as liaisons and contacts for student veterans;	<p>Most institutions report they have academic advisors for veterans. Some are faculty; some are staff.</p>
(6) Providing information about programs that grant	<p>All institutions utilize methods of granting credit</p>

credit for prior learning to student veterans and potential student veterans;	for prior learning, and individualized needs are addressed in conjunction with academic advisors and counselors. All institutions are providing information to student veterans regarding the Regents Bachelor of Arts degree and Board of Governors Associate of Applied Science degree—both of which offer prior learning credit. As part of the Bridging the Gap grant a working group has been established to create pathways from specific MOSs to technical training programs in high-demand fields.
(7) Coordinating existing disability services on campus with veteran disability services available from the United States Department of Veterans Affairs, other federal and state agencies, and private resources;	VA Vocational Rehabilitation has working relationships with disabled student coordinators on all campuses, as well as with the WV Division of Vocational Rehabilitation.
(8) Designating individuals to provide financial and psychological counseling services on each campus who are trained to effectively respond to the needs of veterans and to provide services or referrals to services to fulfill these needs for student veterans, and to the extent practicable, providing those services and programs in one location;	Many institutions offer counseling services on site or have strong ties to VA providers where veterans are directed for such services. HIGHLIGHT – Potomac State College of WVU trains faculty members on how to recognize veterans and active military members who demonstrate the need for financial and psychological counseling services and how to respond to those needs.
(9) Developing training materials on responding to student veteran needs to be available for continued professional development of counselors to student veterans;	A few institutions have developed such materials. The Commission and Council are currently working on creating training materials and resources to assist campus staff.
(10) Facilitating regular statewide meetings for all personnel at state institutions of higher education who regularly provide specific services to student veterans to discuss and develop best practices, exchange ideas and experiences, and hear presentations by individuals with generally accepted expertise in areas of the various needs of student veterans;	Trainings for VA School Certifying Officials, mental health professionals providing services to veterans, and other veteran issue stakeholders are available throughout the year. In addition, the Commission and Council work closely with organizations such as the WV Association of Registrars and Admissions Officers to provide timely and relevant information regarding best practices in meeting student veteran needs.
(11) Gathering data on the status of student veterans, including their graduation rates, comparing that rate with the graduation rate of other students in the institution, and reporting those results to appropriate state and federal agencies, including the West Virginia Legislature;	This is a new requirement under this statute. The Commission and Council have worked with the Division of Policy and Planning to include data regarding success rates of student veterans. A veteran indicator will be included in the data institutions submit to Policy and Planning beginning this fall.
(12) Establishing a program to create a collaborative relationship between student veterans and alumni of the institution, and with prospective employers to facilitate and provide employment as well as social opportunities to graduating student veterans;	A few institutions have existing programs to create such relationships. Some are developing such programs and some have been slower to satisfy this provision. Commission and Council staff will explore all options, including bringing in an outside speaker to share best practices and provide training to assist institutions in

	establishing a program to create collaborative relationships between student veterans and alumni of the institution, and with prospective employers to facilitate and provide employment as well as social opportunities to graduating student veterans.
(13) Developing and facilitating communications between state institutions of higher education and various veteran organizations in the state to advance veteran causes that benefit student veterans;	Institutions have working relationships with veteran organizations that benefit student veterans.
(14) Coordinating among all relevant departments within each state institution of higher education including but not limited to admissions, the registrar, the bursar, the veterans advocate and financial aid to ensure that relevant deadlines or time-lines are met for certifying veterans' enrollment as early as practicable to ensure that assistance is received from the U.S. Department of Veterans Affairs (DVA) in a timely fashion.	Most institutions employ experienced VA Certifying Officials that understand and appreciate the need for timely processing of student veteran claims for VA education benefits and respond accordingly. Some institutions allow early enrollment for veteran students and others are developing similar policies.
(15) Each state institution of higher education shall appoint or designate and train a person, preferably a veteran, to serve as a veterans advocate on its campus.	Nearly all institutions have a veterans advocate. HIGHLIGHT – Recently, Marshall University recruited and hired Tommy Reynolds to serve as its Director of Military and Veterans Affairs at the school. Mr. Reynolds is an Iraq combat veteran and served in the US Army as an Infantryman and Paratrooper in the 82 nd Airborne Division. His goal is to make student veterans at Marshall University feel “at home.”

In April 2014, Mr. Skip Gebhart retired as the Commission’s Director of Veterans Education and Training Programs. The Commission recruited and hired a new director, Mr. L.G. Corder, Esq., in August, 2014. L.G. is a three-time Iraq combat veteran and served in the US Army in the 618th Engineer Company, 82nd Airborne Division, and the 504th Military Intelligence Brigade. He graduated from the West Virginia University College of Law in 2012 and spent two years providing free civil legal services to low income veterans in West Virginia prior to assuming his new position with the Commission.

The Council recruited and hired a Veterans Education Coordinator as part of its US Department of Labor Bridging the Gap Grant. Ms. Renada Snodgrass was hired in May 2014 and has served 12 years with the WV Army National Guard. She was deployed to Iraq in 2003-2004 with 111th Engineer Group. Currently, she is serving with the 1092nd Engineers in Parkersburg West Virginia as an Intelligence Analyst. Ms. Snodgrass is a graduate of West Virginia State University.

During the next year, the Commission and Council will focus efforts on assuring that each veteran student receives the services, support, and education necessary to graduate and succeed. Staff will collaborate in developing appropriate training materials and workshops. Training goals include: clearer website information on veterans topics, improving on the student veteran friendly atmosphere, encouraging and developing student veterans organizations, organizing and promoting events highlighting military appreciation and expanding veteran-to-veteran peer coaching and counseling. In addition, the Council is assisting colleges in development of transfer pathways from military occupations to high-demand technical programs. The Council and the Commission are working together to develop Prior Learning

Assessment policies that ensure veterans receive maximum college credit for their military skills and experiences.

Please feel free to contact Mr. Corder at 304-558-0263, Ms. Snodgrass at 304-558-0087 or either of us if we can provide additional information regarding these initiatives.

Sincerely,



Paul L. Hill
Chancellor



James L. Skidmore
Chancellor

cc: The Honorable Robert Plymale
Chair, Senate Education Committee

The Honorable Mary Poling
Chair, House Education Committee



West Virginia
Higher Education
Policy Commission



**Report to the Legislative Oversight Commission
on Education Accountability**

September 8, 2014

Progress Report on Senate Bill 330



Bruce L. Berry, M.D.
Chair

Paul L. Hill, Ph.D.
Chancellor

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West Virginia Community and Technical College System

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Clarence "Butch" Pennington
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James L. Skidmore
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August 12, 2014

The Honorable Robert H. Plymale
Co-Chair, Legislative Oversight Commission on Education Accountability
Senate Education Committee
Room 417-M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

The Honorable Mary M. Poling
Co-Chair, Legislative Oversight Commission on Education Accountability
House Education Committee
Room 434-M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Dear Senator Plymale and Delegate Poling:

The Resolution approved by the Legislative Oversight Commission on Education Accountability (LOCEA) on May 20, 2014 requires quarterly progress reports of accomplishments beginning August 15, 2014 regarding implementation of Senate Bill 330, comprehensive legislation regarding personnel administration. This report addresses progress made on behalf of the West Virginia Higher Education Policy Commission (Commission) and West Virginia Council for Community and Technical College Education (Council).

Market Compensation Survey Request for Information

The Acting Vice Chancellor for Human Resources prepared a Request for Information (RFI) and appendices which guide responders to the most appropriate sections of West Virginia Code. The RFI includes three main sections for vendors to review and suggest processes, methods, and timelines for completing the work. First, and most important, are the compensation market studies for all categories of employees. The information includes the recognition that much preliminary work is required of the selected consultant before being able to conduct a sound market study of wages for non-classified and faculty employees. The second RFI topic requests that the consultant propose a process, method, and/or program for establishing, measuring and maintaining compensation equity among employee categories. Finally, the third topic of the RFI requests that the consultant review the statutory expectations with regard to

centralized support of the human resources function for West Virginia public higher education and recommend organization, programs, staffing and budgeting to implement the Legislature's expectations.

The initial draft of the RFI was distributed on June 12, 2014 for review and comment to the Advisory Council for Classified Employees and the Advisory Council of Faculty via their representation on the Common Grounds Committee and the Chief Human Resources Officers. Feedback was received and modifications were made to the RFI. The next draft was distributed to the same constituency on July 9, 2014. The final RFI was publicized on July 15, 2014 and a copy was provided to your offices shortly thereafter.

The Acting Vice Chancellor for Human Resources attended the annual conference of World-at-Work in May 2014. World-at-Work is the leading compensation association in the country and is the organization responsible for training and testing for Certified Compensation Professional (CCP) certification. During the conference, the Acting Vice Chancellor visited vendor booths to interview compensation professional representatives and obtain contact information from vendors who may be able to provide services necessary for implementation of Senate Bill 330. From the information collected, a short list of 35 vendor representatives was established and the RFI was distributed directly to these vendors, along with newspaper publication and an announcement of the release on professional web sites (LinkedIn, World-at-Work, SHRM, CUPA-HR, etc.).

The RFI includes a timeline with specific dates for receipt of written questions, publication of answers, receipt of responses, evaluation of information submitted, vendor meetings, and the date to begin development of formal Requests for Proposal for competitive bid. To help vendors understand the complexity of our system and help ensure credible responses are submitted, the RFI includes a description of the higher education systems; background information on human resources administration; detailed descriptions of the three categories of employees; an explanation of how a job can exist in one or more of the three categories; where uniformity or lack of uniformity exists in job titling; a detailed description of existing classification and compensation programs; and the roles and functions of the Job Classification Committee and the Compensation Planning and Review Committee established in legislation.

Following the release of the RFI, presentations were made regarding implementation status of Senate Bill 330, the Resolution and Request for Information along with the Master Plans for the Commission and Council at the annual retreat of the Advisory Council of Classified Employees (July 14, 2014) and the annual retreat of the Advisory Council of Faculty (July 21, 2014). In addition to presentations to constituents, the Request for Information was presented as an information item at the August 1, 2014 meeting of the Commission. The same agenda item will be presented to the Council on August 20, 2014.

As of the writing of this report, vendors are beginning to make contact and expectations are high that the Commission and Council will receive credible proposals developed with a real understanding of the complexities and challenges faced as we progress toward accomplishment of Senate Bill 330 initiatives.

Other Human Resources Initiatives

Development of data elements, submission of information, and participation in testing and training for the WVOASIS HR/Payroll system continue to make demands on the time of human resources staff. Recent recruitment and hiring processes for the Executive Vice Chancellor for Administration, the Vice Chancellor for Student Affairs, the Vice Chancellor for Academic Affairs, the Vice Chancellor for Policy and Planning, the Director of Veterans Education and Training Programs, the Director of Workforce and Economic Development, and other support staff positions have delayed the process of recruiting and permanently filling the position of Vice Chancellor for Human Resources. However, the Acting Vice Chancellor for Human Resources is continuing to make progress with human resources initiatives required by Senate Bill 330 and subsequent legislation/resolution, the design and implementation of the WVOASIS HR/Payroll modules for our 22 organizations; providing policy guidance and technical support for the institutional chief human resources officers as well as providing human resources services for the offices of the Commission and Council.

Sincerely,



Paul L. Hill
Chancellor



James L. Skidmore
Chancellor

cc Mr. Matt Turner, Executive Vice Chancellor for Administration
Ms. Patricia Clay, Acting Vice Chancellor for Human Resources



West Virginia Higher Education Policy Commission
West Virginia Community and Technical College System



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Clarence "Butch" Pennington
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James L. Skidmore
Chancellor

August 21, 2014

The Honorable Robert H. Plymale
Co-Chair, Legislative Oversight Commission on Education Accountability
Senate Education Committee
Room 417-M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

The Honorable Mary M. Poling
Co-Chair, Legislative Oversight Commission on Education Accountability
House Education Committee
Room 434-M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Dear Senator Plymale and Delegate Poling:

In follow-up to your request for additional detail about the timeline included in the Request for Information (RFI) for the Comprehensive Human Resources Initiatives published on July 15, 2014, provided below is the timeline for the project which is included on Page 12 of the Request for Information:

Official RFI Release:	July 15, 2014
Deadline for Written Questions:	August 15, 2014
Written Responses to Questions Issued:	August 29, 2014
Information Responses Due:	September 23, 2014
Evaluation of Responses Complete by:	October 3, 2014
Meetings with Vendors:	October 6-17, 2014
Development of Formal Request for Proposals Begin:	November 1, 2014

Additionally, activities related to the development of the RFI and anticipated milestones and goals for the next few months are provided in the attached report.

If you have questions or require additional information, please let us know.

Sincerely,

Paul L. Hill
Chancellor

James L. Skidmore
Chancellor

Attachment

cc Mr. Matt Turner, Executive Vice Chancellor for Administration
Ms. Patricia Clay, Acting Vice Chancellor for Human Resources

Senate Bill 330 Activities

May 18, 2014

Effective date of appointment of Interim Vice Chancellor for Human Resources.

May 20, 2014

Legislative Oversight Commission on Education Accountability approved Resolution making implementation of all aspects of Senate Bill 330 the primary focus of the West Virginia Higher Education Policy Commission (Commission) and the West Virginia Council for Community and Technical College Education (Council). Encouraged release of Request for Information (RFI).

May 19 – 23, 2014

Acting Vice Chancellor for Human Resources attended national World at Work Conference in Dallas Texas. Interviewed potential vendors and compiled contacts for distribution of Request for Information and Request for Proposals for work required in compliance with Senate Bill 330.

May 26 – June 12, 2014

Analyzed Senate Bill 330 and volumes of reports and papers developed over prior three years. Drafted Request for Information and Appendix A providing appropriate background and explanation of the state supported systems of higher education in West Virginia and Senate Bill 330.

June 12, 2014

Distributed a draft of the RFI with a proposed timeline ending on September 15, 2014. Solicited feedback from Advisory Council of Classified Employees and Advisory Council of Faculty (through representative members on the Common Grounds Committee), Chief Human Resources Officers, Common Grounds Committee membership, and Commission and Council staff.

June 13 – July 7, 2014

Received feedback and recommendations from ACCE and two CHRO constituents. Modified original version of RFI based on the feedback received.

July 8, 2014

Distributed second draft of Request for Information to the Chief Human Resources Officers, Amy Pitzer, Sylvia Shurbut, Chancellor Paul Hill, Chancellor James Skidmore, Bruce Walker and Mary Blashford, Director of Procurement. Advised that unless there were major issues that needed changed, this version would be released on July 14, 2014.

July 8, 2014

Distributed copy of revised version of Request for Information to the Chief Human Resources Officers, the Advisory Council of Classified Employees and Advisory Council of Faculty (through representative members of the Common Grounds Committee), the

Common Grounds Committee membership, Chancellor Paul Hill, Chancellor James Skidmore, and Bruce Walker.

July 9, 2014

Final draft of RFI was distributed to Senator Plymale, Delegate Poling, Chancellor Paul Hill, Chancellor Jim Skidmore, and Cindy Anderson. Message included the following information: *After consideration of feedback received, the original was modified, resulting in the version attached. Based on a recommendation from ACCE, the timeline in the RFI was modified to allow vendors an appropriate period to thoroughly analyze the information provided, conduct research using the linked information accessible via Appendix A, and formulate any questions they have about the particular numbered topic of the RFI for which they may be able to provide services.*

July 9, 2014

Final draft of RFI shared with Amy Pitzer and Sylvia Shurbut and Common Grounds Committee membership. Confirmed to Amy Pitzer and Sylvia Shurbut in a separate message that the final version of the RFI could be shared with their constituent groups.

July 18, 2014 – August 20, 2014

- Distributed RFI to contact list of approximately 35 compensation and human resources vendors compiled over the prior two months.
- Fielded questions and inquiries from vendors (Mercer, PayScale, IBM, Longnecker, Pearl Meyer, Xerox).
- Made presentation about RFI to Advisory Council of Classified Employees at their Annual Retreat in Logan, WV.
- Made presentation to Advisory Council of Faculty during their annual meeting held in Davis, WV.
- Presented Senate Bill 330 Update which included review of the RFI during the August 1, 2014 Commission meeting.
- Received questions on August 12, 2014 from one consultant.
- Presented same update to the Council during the August 20, 2014 meeting.
- Conducted conference call with Chief Human Resources Officers wherein they were informed that submission of current job descriptions for all titles held by employees (nonclassified, classified and faculty) will be required, possibly as early as December 2014. They were encouraged to begin work making sure job descriptions exist and are up to date for all positions.
- Met with Policy and Planning IT professionals to incorporate coding in annual submission of personnel data to ensure title coding, position number, exemption status and EEO coding submitted matched new coding created for WVOASIS. This is necessary to enable the Commission and Council to produce reports necessary for consultants to conduct analysis of job titles, employee salaries and categories necessary to conduct credible compensation market studies. Additionally, nonclassified employee ratios will be calculated from annual submission data.
- Continue to field questions and inquiries from potential vendors (Hay Group and MarketPay as of August 21, 2014).

Proposed Activities, Milestones, and Goals
Request for Information / Request for Proposals
Human Resource Initiatives
August 21, 2014 – December 31, 2014

August 21 - August 29, 2014

- Prepare written responses to questions for RFI and post to Commission and Council Web sites for benefit of all consultant vendors.

August 30 – September 23, 2014

- Continue to field questions and inquiries from potential vendors.
- Project Planning - Meet with IT staff from Division of Policy and Planning and/or WVNET to investigate possibility of technology solution for receipt and organization of job descriptions for use by compensation vendors.
- Project Planning - Meet with research staff from Division of Policy and Planning to help design appropriate study process and elements, including employee climate survey, for issues described and required by Senate Bill 330.
- Receive Vendor Responses for Request for Information.

September 24 – October 3, 2014

- Evaluate vendor responses to determine whether follow-up meetings should be scheduled.

October 6-17, 2014

- Two-week period reserved for possible meetings with vendors to clarify responses and information submitted. If no additional information is required, begin drafting Request for Proposals.

October 20 – 31, 2014

- Allow time for submission of additional information or clarifications if necessary.
- Evaluate additional information received to determine what criteria to include in Request for Proposals.
- Identify any “sole source” options.

November 3 - 14, 2014

- Draft Request for Proposals (may be more than one) for compensation studies for classified, nonclassified and faculty employee categories.
- Ensure Equity Measures are defined and included in RFP - or - draft separate RFP to be advertised for design of equity study and reporting criteria.

- Draft Request for Proposals to conduct review for redesign of current human resources structure to effectuate change, as well as implement and maintain requirements of Senate Bill 330.

November 17 – December 5, 2014

- Estimated period for meetings and review of Request for Proposals by the Compensation Planning and Review Committee, the Advisory Council of Classified Employees, the Advisory Council of Faculty, Chief Human Resources Officers, College Presidents and Commission/Council administrative staff.

December 19, 2014

- Anticipated release of final Request for Proposals.

After release of the Request for Proposals for conducting market studies, developing pay philosophies, designing pay structures, incorporating communication plans, designing and presenting reports and updates, timelines will be dependent on proposals from consultants. Additional factors that affect timeline estimations include:

- the cost of the project(s) and the Commission and Council's ability to award contracts for all work required or whether the work has to be spread over additional fiscal years;
- the amount of support required of Commission/Council staff, as well as college and university human resources staff (Include professional and technical support);
- competing demands on staff time with regard to WVOASIS HR/Payroll implementation and human resources functions necessary for the Commission and Council as an agency (medical leave management, supervisor training, performance management system and training, etc.); and
- ability of the Commission and Council to staff the Human Resources Division at a level conducive to achievement of requirements and on-going programs outlined in Senate Bill 330.