

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

April 30, 2021 | 9:00 a.m. | By Zoom Conference

1-646-558-8656 and enter meeting ID 916 9703 5485

AGENDA

I. Call to Order

II. Chairman's Report

- A. Formation of Nominating Committee
- B. 2022 Meeting Dates

III. Chancellor's Report

IV. Updates from Constituent Groups

- A. Advisory Council of Classified Employees
- B. Advisory Council of Faculty
- C. Advisory Council of Students

V. Update from Council of Presidents

VI. Update on Legislative Session

VII. Update from the Division of Student Affairs

VIII. Update from the Division of Science and Research

IX. Update from the Division of Health Sciences

X. Approval of Minutes (*Pages 3 – 15*)

XI. Approval of Revisions to Series 59, Procedural Rule, Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program (*Pages 16 – 24*)

XII. Approval of Institution Capital Assessments for Fiscal Year 2022 (*Pages 25 – 27*)

**XIII. Approval of Financing for Energy Savings Projects and Related Financing
(Pages 28 – 122)**

**XIV. Approval of Extension of the West Virginia Higher Education Grant
Application Deadline (Page 123)**

**XV. Degree Pursuant Coursework Appeal for Financial Aid Eligibility
(Pages 124 – 126)**

**XVI. Presentation of the College-Going Rate of 2020 West Virginia Public High
School Graduates (Pages 127 – 129)**

XVII. Report on Program Review (Pages 130 – 137)

**XVIII. Possible Executive Session under the Authority of West Virginia Code §6-
9A-4 to Discuss Personnel Issues**

A. Approval of Chancellor's Contract

XIX. Additional Board Action and Comment

XX. Adjournment

DRAFT MINUTES

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

November 20, 2021

I. Call to Order

Chairman Michael J. Farrell convened a meeting of the West Virginia Higher Education Policy Commission on November 20, 2020, at 9:00 a.m., by Zoom videoconference and conference call. The following Commission members participated: Robert L. Brown, Ex-Officio; Clayton Burch, Ex-Officio; James W. Dailey; Michael J. Farrell; Diane Lewis Jackson; Dale Lowther; and Andrew A. Payne. Absent was Commissioner Donna L. Schulte. Other participants included state college and university representatives, Chancellor Sarah Armstrong Tucker, and Commission staff.

Chairman Farrell secured a quorum and welcomed all participants to the meeting.

II. Chairman's Report

Chairman Farrell presented a resolution honoring retiring Vice Chancellor of Health Sciences, Robert B. Walker, M.D., for his many years of exemplary service to the State of West Virginia and its higher education community. Commissioner Payne moved approval of the resolution; Commissioner Dailey seconded the motion. Motion passed.

Chairman Farrell proceeded to speak of the impact that the COVID-19 pandemic continues to have on students such as food insecurity; lack of broadband availability, affecting K-12 and college students as both are relying on virtual education; low participation in the number of applications for the PROMISE Scholarship, which is of great concern as the Legislature approved the scholarship to improve college attendance and retention of West Virginia students, among others. Mr. Farrell stated that, we as a community, need to find solutions to these problems. He urged the Chancellor and Vice Chancellor to continue communicating to the Legislature that it is essential that we do more for our students.

III. Chancellor's Report

Chancellor Sarah Armstrong Tucker reported that today, November 20, 2020, is the last day of in-person classes for the state's colleges and universities, which then will be transitioning to virtual learning for the remainder of the semester to avoid further spread of the COVID-19 virus around the holidays. She commended the presidents for their hard work to keep their campuses safe and stated that as a result, less than 1 percent of students, faculty and staff have tested positive for the virus. Chancellor Tucker expressed concern about the decline in enrollment at most campuses, particularly among dual-enrollment, out-of-state and international students. She added that applications to the PROMISE Scholarship Program have dropped as well and

mentioned the probable causes for the decreases. To improve college participation, she explained that the Commission is launching a digital communication marketing campaign in December and working with its partners to spread the message to students and their families that they cannot lose sight of their future, that the pandemic will be behind one day, and they must stay on track for college right now.

Regarding recent work by Commission staff, Chancellor Tucker highlighted the annual College Application and Exploration Week, an event organized by the Division of Student Affairs to discuss college options with students. She proudly stated that it was a success with nearly 400 elementary, middle and high schools, adult education classes, community groups and home-schooling groups participating.

IV. Updates from Constituent Groups

A. Advisory Council of Classified Employees

Ms. Jenna Derrico, Chair of the Advisory Council of Employees and employee at West Virginia Northern Community and Technical College, reported on behalf of classified employees. Ms. Derrico stated that the Council is working on preparing for the next legislative session. Issues of concern to staff include how the legislative super-majority recently elected may affect higher education; if legislation proposed in years past will be revisited; if campuses will be allowed carry-out choice without legislative interference; finding a permanent solution for PEIA funding; and better broadband accessibility throughout the state, among others. Ms. Derrico stated that the Council is worried with the possibility of employee furlough and if they will have input about its implementation. She asked that the Commission issue guidelines regarding what it is to be a classified and non-classified employee, with the latter not being written in the State's Code.

B. Advisory Council of Faculty

Dr. Joseph Allen, Chair of the Advisory Council of Faculty and professor at Concord University, reported on behalf of faculty. Dr. Allen stated that the Council is developing a plan that supports faculty for the upcoming legislative session. He further stated that broadband access continues to be a problem at the campuses and that classes need to be smaller-in size to enable the delivery of hybrid-teaching caused by the pandemic. He explained that teaching a class in-person and virtually resembles teaching several classes at the same time. Dr. Allen added that due to safety protocols in place, West Virginia colleges have averted large numbers of COVID-19 cases in their campuses.

C. Advisory Council of Students

Ms. Anna Williams, Chair of the Advisory Council of Students and Student Body President at Marshall University, reported on behalf of the students. She stated that

food insecurity continues to affect students particularly those who have lost their employment or are working less hours due to the pandemic. She explained that many colleges are working with food pantries and other community organizations to provide food to all students in need. Ms. Williams further stated that Internet access is a problem for a lot of students, particularly now that classes will be offered virtually. Also of great concern is the rise in students experiencing mental health struggles exacerbated by the pandemic, with many reporting that anxiety and stress levels are causing them difficulty in concentrating. Ms. Williams added that campus counselors are dealing not only with the students' mental health but also their financial needs and mentioned the need to increase their number to assist with these issues. She noted that, sadly, students are losing their college experience due to the pandemic.

V. Update from Council of Presidents

Dr. Stephen Greiner, President of West Liberty University, reported on behalf of the Council of Presidents. Dr. Greiner stated that the institutions have designed and implemented guidelines for campus and surveillance testing to control the spread of the COVID-19 virus. He added that the presidents are working to address food insecurity and mental issues affecting their students. He conveyed the presidents' gratitude to Chancellor Tucker, Dr. Cynthia Persily and others in the Commission who advocate for their institutions before the Governor and are instrumental in securing the services of the National Guard and the Department of Health and Human Resources.

VI. Approval of Minutes

Commissioner Dailey moved to approve the minutes of the Higher Education Policy Commission meetings held on September 18 and October 19, 2020. Commissioner Lewis Jackson seconded the motion. Motion passed.

VII. Presentation of Fiscal Year 2020 Consolidated Audit

Dr. Edward Magee, Vice Chancellor of Finance, provided an overview of the Fiscal Year 2020 consolidated audit. He invited Michael Johns of the firm Clifton Larson Allen LLP, which conducted the audit, to offer comments. Afterward, Commissioner Jackson Lewis asked if any changes were anticipated in the colleges' bond ratings. Dr. Magee explained that it will depend on what the spring semester looks like. He added that West Virginia State University is looking to do refinancing.

Commissioner Payne moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission accepts the audited financial report for the Higher Education Fund for the Fiscal Year ending June 30, 2020.

Commissioner Dailey seconded the motion. Motion passed.

VIII. Approval of Fiscal Year 2022 Capital Project Priorities

Dr. Magee provided an overview of the proposed Fiscal Year 2022 capital project priorities.

Commissioner Payne moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission approves the prioritized capital project list for Fiscal Year 2022 and directs staff to report the capital project priorities to the Legislative Oversight Commission on Education Accountability in January as statutorily required.

Commissioner Lewis Jackson seconded the motion. Motion passed.

IX. Report on Fall 2020 Enrollment

Dr. Chris Treadway, Senior Director of Research and Policy, provided a detailed analysis of current enrollment data derived from the Fall Census 2020 data collection along with historical enrollment trends. Data elements considered included the College-Going Rate, Fall to Fall Retention Rates, Headcount Enrollment, and FTE Enrollment.

X. Presentation of 2020 Financial Aid Comprehensive Report

Mr. Brian Weingart, Senior Director of Financial Aid, provided a detailed overview of the 2020 Financial Aid Comprehensive Report which included descriptions of and changes to West Virginia financial aid programs; policy recommendations for West Virginia financial aid programs; and longitudinal data about recipients of state financial aid, and outcomes of these recipients. The Financial Aid Comprehensive Report along with the Financial Aid section of Explorer, the Commission's higher education data portal, together provide a comprehensive view of the principal sources of financial aid at West Virginia colleges and universities. Data presented were for the 2019-2020 academic year.

Mr. Weingart added that the Financial Aid Comprehensive Report may be accessed at the following link: <http://www.wvhepc.edu/resources/data-and-publication-center/>

XI. Approval of Fiscal Year 2020 Research Trust Fund Annual Report

Dr. Juliana Serafin, Senior Director of Science and Research, provided an overview of the Fiscal Year 2020 Research Trust Fund Annual Report.

Commissioner Lewis Jackson moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission approves the

Fiscal Year 2020 Research Trust Fund Annual Report and recommends submission to the Governor and the Legislature.

Commissioner Lowther seconded the motion. Motion passed.

XII. Vision 2025 Annual Report

Dr. Serafin provided a detailed overview of the Vision 2025 Annual Report. She stated that it was developed in 2015 as the strategic plan to guide the Commission's science and research efforts to achieve the goal: "By 2025, Science, Technology, and Engineering are West Virginia's Leading Economic Growth Drivers Attracting Investments, Creating Jobs, and Improving Our Quality of Life." She added that there are five objectives in the plan: Financial Development; Physical Development; People Development; Cultural Development; and Innovation Economy Development. Each objective has two or three "smart goals," specific, measurable, attainable, results-focused, and time-bound. Because the plan is now over five years old, the Division of Science and Research issued a Request for Proposals on October 16, 2020. A final draft of the new plan will be available on April 1, 2021.

XIII. West Virginia University BA/BS to BSN Program at New Location

Dr. Corley Dennison, Vice Chancellor of Academic Affairs, provided an overview of West Virginia University's School of Nursing request to offer a Bachelor of Arts/Bachelor of Science to Bachelor of Science in Nursing fast-track degree program in Bridgeport, West Virginia. Chairman Farrell asked Dr. Dennison to explain the effect of this new program on the nursing degree offered by Fairmont State University.

Commissioner Lowther moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission confirms West Virginia University to offer a BA/BS to BSN program at the United Hospital Center in Bridgeport, WV. This authorization is specifically for the BA/BS to BSN program.

Commissioner Payne seconded the motion. Motion passed.

XIV. Approval of Bachelor of Science in Strategic Leadership

Dr. Dennison provided an overview of the proposed Bachelor of Science in Strategic Leadership as submitted by Fairmont State University. He invited Dr. Timothy Oxley, Interim Dean of the School of Business, to offer comments on the new program.

Commissioner Payne moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission approves the Bachelor of Science in Strategic Leadership at Fairmont State University for

implementation in August 2021. This approval expires two years from the date of Commission approval if the program is not fully implemented.

Commissioner Lowther seconded the motion. Motion passed.

XV. Approval of Series 64, Legislative Rule, Administrative Exemption

Mr. Matthew Turner, Executive Vice Chancellor of Administration, provided an overview of the proposed Series 64, Legislative Rule, Administrative Exemption.

Commissioner Dailey moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission approves the proposed Series 64, Legislative Rule, Administrative Exemption, to be filed with the Secretary of State for the thirty-day public comment period and, if no substantive comments are received, that the Commission extends its final approval.

Commissioner Lowther seconded the motion. Motion passed.

XVI. Confirmation of Presidential Appointment and Approval of Presidential Compensation

This item was removed from the agenda as the approved contract has not been submitted to the Commission.

XVII. Additional Board Action and Comments

There were no additional board action items or comments.

XVIII. Adjournment

There being no further business, Commissioner Lowther moved to adjourn the meeting. Commissioner Dailey seconded the motion. Motion passed.

Michael J. Farrell, Chairman

Diana Lewis Jackson, Secretary

DRAFT MINUTES
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
SPECIAL MEETING

December 14, 2020

I. Call to Order

Chairman Michael J. Farrell convened a special meeting of the West Virginia Higher Education Policy Commission on December 14, 2020, at 1:00 p.m., by Zoom videoconference and conference call. The following Commission members participated: Clayton Burch, Ex-Officio; James W. Dailey; Michael J. Farrell; Diane Lewis Jackson; Dale Lowther, and Donna L. Schulte. Absent were Commissioners Robert Brown, Ex-Officio; and Andrew A. Payne. Other participants included state college and university representatives, Chancellor Sarah Armstrong Tucker and Higher Education Policy Commission staff.

Chairman Farrell secured a quorum and gave a brief overview of the agenda.

II. Confirmation of Presidential Appointment and Approval of Presidential Compensation

Ms. Kristin Boggs, General Counsel, provided an overview of the presidential appointment and contract, as submitted by West Liberty University.

Commissioner Lowther moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission confirms the appointment of Dr. W. Franklin Evans as President of West Liberty University and approves his compensation as proposed by the West Liberty University Board of Governors.

Commissioner Schulte seconded the motion. Motion passed.

VI. Additional Board Action and Comment

There were no additional board action items or comments.

VII. Adjournment

There being no further business, Commissioner Lewis Jackson moved to adjourn the meeting. Commissioner Dailey seconded the motion. Motion passed.

Michael J. Farrell, Chairman

Diana Lewis Jackson, Secretary

DRAFT MINUTES
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
SPECIAL MEETING

March 11, 2021

I. Call to Order

Chairman Michael J. Farrell convened a special meeting of the West Virginia Higher Education Policy Commission on March 11, 2021, at 10:00 a.m., by Zoom videoconference and conference call. The following Commission members participated: Robert Brown, Ex-Officio, James W. Dailey; Michael J. Farrell; Diane Lewis Jackson; Dale Lowther, and Andrew A. Payne. Absent were Commissioners Clayton Burch, Ex-Officio; and Donna L. Schulte. Other participants included state college and university representatives, Chancellor Sarah Armstrong Tucker and Higher Education Policy Commission staff, and others.

Chairman Farrell secured a quorum and gave a brief overview of the agenda.

II. Approval of Fiscal Year 2022 Distribution Plan for the West Virginia Higher Education Grant Program

Ms. Tana Pendell, Financial Aid Manager, gave an overview of the proposed distribution plan for the West Virginia Higher Education Grant Program for Fiscal Year 2022.

Commissioner Payne moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission approves the proposed Fiscal Year 2022 distribution plan for the West Virginia Higher Education Grant Program

Commissioner Lewis Jackson seconded the motion. Motion passed.

III. Approval of Eligibility Requirements, Annual Award Amount, Summer Awards, Modification to National Testing Requirement for the PROMISE Scholarship Program, and Extension of the PROMISE Scholarship Deadline

Ms. Pendell gave an overview of the proposed action for the PROMISE Scholarship Program.

Commissioner Lowther moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission approves proposed eligibility requirements, the annual award amount, summer awards,

modification to national testing requirement for the PROMISE Scholarship Program, and extension of the PROMISE Scholarship deadline.

Commissioner Payne seconded the motion. Motion passed.

IV. Approval of Revisions to Series 64, Legislative Rule, Administrative Exemption

Mr. Matt Turner, Executive Vice Chancellor for Administration, gave an overview of the proposed revisions to Series 64, Legislative Rule, Administrative Exemption.

Commissioner Dailey moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission approves the revisions to Series 64, Legislative Rule, Administrative Exemption, to be filed with the Secretary of State and the Legislative Oversight Commission on Education Accountability for further legislative action.

Commissioner Lewis Jackson seconded the motion. Motion passed.

V. Approval of Appointments to the West Virginia Regional Technology Park Board of Directors

Dr. Sarah Armstrong Tucker, Chancellor, gave an overview of the proposed appointments to the West Virginia Regional Technology Park Board of Directors.

Commissioner Lowther moved approval of the following resolution:

Resolved, That the West Virginia Higher Education Policy Commission approves the appointments to the West Virginia Regional Technology Park Board of Directors.

Commissioner Dailey seconded the motion. Motion passed.

VI. Additional Board Action and Comment

There were no additional board action items or comments.

VII. Adjournment

There being no further business, Commissioner Payne moved to adjourn the meeting. Commissioner Lewis Jackson seconded the motion. Motion passed.

Michael J. Farrell, Chairman

Diana Lewis Jackson, Secretary

DRAFT MINUTES

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION SPECIAL MEETING

March 29, 2021

I. Call to Order

Chairman Michael J. Farrell convened a special meeting of the West Virginia Higher Education Policy Commission on March 29, 2021, at 1:00 p.m., by Zoom videoconference and conference call. The following Commission members participated: Clayton Burch, Ex-Officio; James W. Dailey; Michael J. Farrell; Diane Lewis Jackson; Dale Lowther; and Andrew A. Payne. Absent were Commissioners Robert L. Brown, Ex-Officio; and Donna L. Schulte. Other participants included state college and university representatives, Chancellor Sarah Armstrong Tucker, Higher Education Policy Commission staff, and others.

Chairman Farrell secured a quorum and gave a brief overview of the agenda.

II. Approval of Debt Refunding and Redemption

Dr. Edward Magee, Vice Chancellor of Finance, gave an overview of the proposed approval of debt refunding and redemption as requested by West Virginia State University.

Commissioner Lowther moved approval of the following resolution:

Resolved, that the West Virginia Higher Education Policy Commission approves the West Virginia State University debt refunding and redemption transaction as described in the approving resolution.

Commissioner Lewis Jackson seconded the motion. Motion passed.

III. Additional Board Action and Comment

With a heavy heart, Chancellor Tucker shared news of the unexpected passing of Dr. Scott Beard, Provost and Vice president of Academic Affairs at Shepherd University.

IV. Adjournment

There being no further business, Commissioner Payne moved to adjourn the meeting. Commissioner Lewis Jackson seconded the motion. Motion passed.

Michael J. Farrell, Chairman

Diana Lewis Jackson, Secretary

**West Virginia Higher Education Policy Commission
Meeting of April 30, 2021**

ITEM: Approval of Revisions to Series 59, Procedural Rule, Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program

INSTITUTIONS: All

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia Higher Education Policy Commission approves revisions to Series 59, Procedural Rule, Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program to be filed with the Secretary of State for the 30-day public comment period and, if no substantive comments are received, that the Commission extends its final approval.

STAFF MEMBER: Cynthia Persily

BACKGROUND:

The passage of Senate Bill 707 amended W.Va. Code §18-2E-11A to establish a career pathway for nursing students, starting with dual credit and or early enrollment courses in high school, to a seamless transition for completion of a nursing degree in a community and technical college and on to completion of a bachelor's degree. The proposed revisions to Series 59, Procedural Rule, Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program reflect the addition of awarding credit for the completion of the Nursing Career Pathway.

Student course credit earned through dual credit and/ or early enrollment as part of the Nursing Career Pathway must be accepted by institutions as higher education credits counting toward specific credits to the major of nursing or nursing science. Completion of the nursing pathway shall be identified on the high school transcript. Students completing the nursing pathway shall also be in possession of the Therapeutic Services Certificate.

Dual credit and/or early enrollment courses in the nursing pathway are developed as required course credit according to West Virginia Department of Education Policy 2150 and 2520.13. These courses include college-level English, college algebra or statistics, anatomy and physiology and general psychology.

Students may also earn college-level credit for the Nursing Career Pathway and specific to the major of nursing or nursing science through Advanced Placement courses (AP).

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

**SERIES 59
AWARDING UNDERGRADUATE COLLEGE CREDIT FOR PRIOR LEARNING, ADVANCED
PLACEMENT CREDIT, ~~AND~~ COLLEGE-LEVEL EXAMINATION PROGRAM, AND
NURSING CAREER PATHWAYS**

§133-59-1. General.

1.1. Scope. -- This rule establishes guidelines for West Virginia public colleges and universities for the awarding of college credit for prior college-level learning through prior learning assessment, for acceptance of advanced placement credit, ~~and~~ awarding of credit for the College-Level Examination Program, and awarding of credit for completion of the Nursing Career Pathway.

1.2. Authority. -- ~~West Virginia~~ W. Va. Code §§18B-1-1A, 18B-1-6, 18B-1B-4, 18B-2A-4, 18-2E-11A.

1.3. Filing Date. -- ~~August 28, 2018.~~

1.4. Effective Date. -- ~~September 28, 2018.~~

1.5. Repeal of Former Rule. -- Repeals and replaces Title 133, Series ~~15 and Series 16~~ 59, dated September 28, 2018.

§133-59-2. Purpose for Prior Learning Credit.

2.1. Legislative goals established for West Virginia state colleges and universities provide that higher education in West Virginia should contribute fully to the growth, development, and quality of life of the state and its citizens. This policy details the responsibilities of the state higher education institutions regarding the awarding of college credit for prior college-level learning gained outside the higher education academic environment.

2.2. The West Virginia Higher Education Policy Commission (Commission)/West Virginia Council for Community and Technical College Education (Council) recognizes that some students, particularly adults and non-traditional students, may have acquired prior college-level learning through the development of skills or knowledge that closely parallel those outcomes taught in college-level courses. It is important that colleges and universities have the opportunity to evaluate learning that has taken place outside the higher education academic environment and to award academic credit when appropriate.

2.3. The purpose of this rule is to outline the terms and conditions under which West Virginia public colleges and universities award and/or transfer credits toward a degree or certificate based upon Prior Learning Assessment (PLA) and to provide consistent and accessible methods for students to earn these credits.

2.4. It is the intent of the Commission/Council to permit the awarding of undergraduate academic credit for prior learning through a variety of assessment methodologies that will ensure the academic credibility of such credit. Under these guidelines, in accordance with institutional policies and procedures, each institution shall award academic credit for prior learning that is equivalent to coursework which satisfies the requirements for the degree program in which the student is enrolled.

2.5. The Board of Governors Associate of Applied Science degree program and the Regents Bachelor of Arts degree program maintain specific guidelines and requirements for the use of credit for prior learning. This policy does not replace existing guidelines.

§133-59-3. Definitions.

3.1. Prior Learning Assessment (PLA) is defined as the assessment of college-level learning for college credit gained outside the higher education academic environment. For example, individuals may acquire college-level knowledge or skills through work, employee training programs, military service, independent study, non-credit courses, or community service. Only documented and demonstrated college-level learning will be awarded college credit.

3.2. In support of providing opportunities for students to earn college-level credit for college-level learning that has been acquired outside the higher education academic environment, the assessment of prior college-level learning can be accomplished through a variety of assessment methods including, but not limited to the following:

3.2.~~a~~1. Advanced Placement Exams

3.2.~~b~~2. American Council on Education (ACE) Guides

3.2.~~c~~3. College Level Examination Program (CLEP) Exams

3.2.~~d~~4. DANTES Subject Standardized Test (DSST)

3.2.~~e~~5. Excelsior College Examination Program (ECE)

3.2.~~f~~6. Institutional Course Challenge Examination Credit

3.2.~~g~~7. International Baccalaureate Program (IB)

3.2.~~h~~8. Institutional Evaluation of Industry and Workforce Training such as apprenticeships, certifications, and licensure

3.2.~~i~~9. Portfolio Assessment/Review Credit

3.2.~~j~~10. Prior Military Training Credit

3.2.11. Nursing Career Pathway

§133-59-4. Principles.

4.1. West Virginia public colleges and universities value the diversity of their students. This diversity includes the unique experiences, interests, and intellectual pursuits that may lead to the acquisition of college-level learning. The acquisition of college-level learning is validated by assessment methods that are academically sound and rigorous.

4.2. West Virginia public colleges and universities shall employ prior learning assessment aligned with their respective missions, the principles of academic integrity, resources, and student educational attainment and success.

§133-59-5. Institutional Policies Regarding Awarding Credit for Prior Learning.

5.1. State colleges and universities shall develop institutional policies for evaluating prior learning and for awarding credit consistent with this policy.

5.1.a1. Each institution shall develop appropriate policies and procedures for awarding credit for a student's prior college-level learning in accordance with this policy, accrediting bodies' guidelines for prior learning assessment, and principles of good educational practice.

5.1.b2. Institutional policy will apply to all academic programs.

5.1.e3. The institutional policy on Credit for Prior Learning must be filed with the Council for Community and Technical College Education and the Higher Education Policy Commission.

5.2. Institutions shall identify the forms of PLA credits that the institution will award, the processes for acquiring such credit, and make that information publicly available to students, faculty, and other stakeholders.

5.3. Institutions shall have discretionary authority to award academic credit for prior learning that is equivalent to coursework which meets the requirements for the degree program in which the student is enrolled.

5.4. Credit for prior learning can apply toward majors, minors, general education requirements, and electives that count toward the student's chosen degree or certificate. Prior Learning Assessment credit may also satisfy prerequisite requirements. College credit awarded through PLA shall not be treated differently in its application and use than its course equivalencies or appropriate block credit.

5.5. Credit for prior learning shall only be awarded to students who are admitted to the institution and have declared a major field of study.

5.6. Credit awarded through PLA shall not count toward institutional residency requirements.

5.7. The evaluation of a portfolio must be completed by faculty with appropriate professional credentials. Course-specific examinations must be designed and evaluated by faculty with appropriate professional credentials. A recommendation for credit shall be made to the appropriate academic officer at the institution and in accordance with the institution's PLA guidelines.

5.8. Institutions must accept PLA credit up to 30 credits for bachelor's degrees, up to 15 credits for associate's degrees, and up to 6 credits for certificate programs.

5.8.a1. Institutions may set a higher limit not to exceed 60 credits for bachelor's degrees, not to exceed 30 credits for associate's degrees, and not to exceed 15 credits for certificate programs.

5.8.b2. If a program accrediting body has a specific maximum for PLA credit, then that maximum should be honored by that particular program.

5.9. Credit awarded through Prior Learning Assessment must be clearly identified as such on a student's official transcript according to institutional PLA guidelines, but it should be evident that the credits are PLA. Such credit shall not be used to determine a student's grade point average or used in the calculation of graduation honors. The credit should be recorded as "Credit" only.

5.10. Student requests for awards of academic credit for prior learning shall be submitted in accordance with the guidelines established by the institution. Institutions must establish a written record of their decisions and the basis for that decision in accepting or declining a Prior Learning Assessment (whether it is portfolio evaluation or other type of assessment) for academic credit. Institutional policies should ensure the transparency of the award or denial of PLA credit. Additionally, institutions must develop and communicate a process for appealing PLA decisions.

5.11. Prior Learning Assessment fees may vary based upon the type of assessment performed. Prior Learning Assessment credit and transcribing fees to students must be clearly published and made available to the student.

5.12. Institutions will regularly review their PLA policies to ensure that they are consistent with accreditation PLA guidelines and state, regional, and national practices.

§133-59-6. Transferability of Prior Learning Assessment Credits.

6.1. Credits earned through PLA will be transferable in accordance with Series 17: *Transferability of Credits and Grades at West Virginia Colleges and Universities*. Once on a student's transcript, credits earned through prior learning shall be treated no differently than other credit coursework on a student's transcript.

6.2. PLA credit awarded at one institution, which meets the West Virginia Core Coursework Transfer Agreement or other statewide articulation agreements, must be accepted as transfer credit toward the degree if the student transfers to another West Virginia public college or university in accordance with the guidelines of that particular policy or agreement.

§133-59-7. Reporting the Awarding of Prior Learning Assessment Credits.

7.1. Each institution shall maintain records of the number of students awarded credit for prior learning, number of credits for prior learning awarded, type of assessment method(s) used, and other recipient data, which will be reported to the Higher Education Policy Commission/Council for Community and Technical College Education on an annual basis. Commission/Council staff will develop specific reporting guidelines and advise each institution of those guidelines.

§133-59-8. Policy for Acceptance of Advanced Placement Credit.

8.1. West Virginia state colleges and universities shall accept advanced placement credits according to the following guidelines:

8.1.a1. High school students completing advanced placement examinations of the College Board with a minimum score of 3 will receive credit at any state college or university, as indicated in the list of advanced placement exams offered by the College Board. The Central Office of the Higher Education Policy Commission maintains a list of all College Board advanced placement exams and the minimum number of credits that each institution shall grant. Credit is to be awarded solely on the basis of satisfactory performance of a score of 3 or higher on the advanced placement examinations.

8.1.b2. When the examination is in the area of the student's major, the institution will award credit toward the major or the core curriculum.

8.1.e3. An academic department within the institution may, upon approval of the institutional faculty, require a higher score than 3 on an advanced placement test if the credit is to be used toward meeting a course requirement for a major in the department.

8.1.d4 Credits awarded by regionally or nationally accredited institutions of higher education in West Virginia for successful completion of advanced placement exams are transferable to West Virginia state colleges and universities in accordance with the advanced placement policy of the receiving institution.

§133-59-9. Institutional Responsibility.

9.1. Each institution shall develop guidelines for acceptance of advanced placement credits that are consistent with the provisions of this rule and publish the guidelines in the college or university bulletin and/or other appropriate institutional publications.

§133-59-10. Policy for the College-Level Examination Program.

10.1. This policy shall serve as a rule for the College-Level Examination Program (CLEP) of the College Entrance Examination Board in West Virginia state colleges and universities. Credit awarded by an institution in conformity with this policy shall be transferable to all West Virginia state colleges and universities. Further, credit shall be awarded only once to recognize mastery of course content. Credit shall not be awarded for equivalent courses in which students have already earned such credit through course work, CLEP, institutional challenge examinations, life experience, or other mechanisms.

§133-59-11. Subject CLEP Examinations.

11.1. Students may be awarded credit for the successful completion of any or all of the CLEP Subject Examinations presently offered or developed in the future. They must achieve a score equal to or above the required score of the Commission on Educational Credit and Credentials of the American Council on Education for CLEP Exams current at the time the examination was taken. Credit shall be awarded in an amount not exceeding the number of semesters for which the examination was designed. A grade shall not be assigned, and the credit will not be included in the computation of the student's grade-point average. The institution shall equate the CLEP credit earned with existing course offerings. If no equivalent course is offered by the institution, the credit earned by CLEP examination shall be considered

elective credit. Students shall not receive CLEP Subject Examination credit for equivalent courses in which they have already earned credit.

§133-59-12. General CLEP Examinations.

12.1. As of the effective date of this policy, an institution may award credit within the limits of the most recent recommended CLEP scores posted by The College Board. At the time of this rule, The College Board chart is found at the following URL: located at <https://clep.collegeboard.org/pdf/what-your-score-means.pdf>.

12.2. It should be made clear to students that such credit in general education may not meet specific program requirements of the institution awarding the credit or of other institutions to which the student may later transfer. The credit shall then be used as elective credit. Students shall not receive CLEP General Examination credit for equivalent courses in which they have already earned credit.

12.3. An institution awarding credit through CLEP may establish scores higher than specified above for Subject and General Examinations if it is established that the higher scores equate to a satisfactory level of performance by students actually enrolled in the equivalent course(s) at that institution.

§133-59-13. Academic Record.

13.1. The permanent academic record of the student shall indicate which credit was earned by CLEP examination.

§133-59-14. Enrollment.

14.1. Students must be enrolled in an institution in order to receive credit from the institution. Students who have taken CLEP examinations prior to enrollment must submit an official CLEP transcript.

§133-59-15. Nursing Career Pathways Policy.

15.1. Nursing continues to offer multiple ways for students to enter the profession and has consistently advocated for creative and innovative opportunities for academic progression that meet the needs of a student population that is diverse along numerous dimensions. While it is certainly possible to change goals and directions, early consideration of the desired end point can provide helpful direction in selecting the most efficient and effective path to reaching career goals. The goal is to give students a clear picture of how to enter the profession and a shorter, more affordable way to progress through the education they need. The pathway includes dual or advanced placement credit for high school students when admitted to nursing programs in community and technical colleges or baccalaureate institutions, seamless transition to bachelor's completion degrees in nursing as needed, and employment opportunities as nursing assistants, licensed practical nurses and registered nurses along the pathway.

15.2. Student course credit earned through dual credit and/or early enrollment as part of the Nursing Pathway Program must be accepted by institutions as higher education credits counting toward credits specific to the major of nursing or nursing science. Completion of the nursing pathway shall be identified on the high school transcript. Students completing the nursing pathway shall also be in possession of the Therapeutic Services Certificate.

15.3. Dual credit or early enrollment courses in the Nursing Career Pathway are developed as required course credit according to West Virginia Department of Education (WVDE) Policy 2150 and WVDE Policy 2520.13. These courses include college-level freshmen English, college algebra or statistics, anatomy and physiology and general psychology. A list of approved dual credit/early enrollment courses may be found on the West Virginia Department of Education's website.

15.4. Students may also earn college-level credit for the Nursing Career Pathway and specific to the major of nursing or nursing science through Advanced Placement courses (AP) as stipulated under Section 8 of this rule.

15.5. Nothing in this rule shall prevent institutions from awarding additional dual credit/early enrollment/AP credit toward the Nursing Career Pathway as allowed under the institution's approved policies for awarding such credit.

**West Virginia Higher Education Policy Commission
Meeting of April 30, 2021**

ITEM: Approval of Institution Capital Assessments for Fiscal Year 2022

INSTITUTIONS: All

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia Higher Education Policy Commission approves the institution capital assessments for Fiscal Year 2022.

STAFF MEMBER: Ed Magee

BACKGROUND:

Commission staff pay system-wide debt service payments on behalf of the four-year and two-year institutions to the trustees, the Municipal Bond Commission and The Bank of New York Mellon. Approval of the Fiscal Year (FY) 2022 allocations are requested.

Table 1 shows the total amount of debt service payments due in FY 2022. Of the \$33,745,344 required for this year, \$12,553,225 must be allocated to institutions and paid from student fees; \$19,853,834 will be paid from Lottery revenue appropriated to the Commission; and \$1,338,285 will be paid from the Federal Government as a subsidy from the 2010 Build America Bonds. Beginning in FY 2014, this subsidy was reduced by the Federal Government annually by about \$99,000 on average. Because this annual reduction is expected to continue, the 2017 refunding reduced the debt service requirement from Lottery revenues to ensure sufficient funds are available to pay the annual debt service.

Staff also requests Commission approval to allocate the student fee portion of the FY 2022 debt service, \$12,553,225, and the facilities planning and administration assessment of \$441,111 as shown in Table 2 to the institutions. This assessment is allocated by the percentage of institutional square feet.

Staff will move the funds from the institutions' accounts on September 1 and March 1 to make the debt service payments to the trustees. Institutions are restricted from using their Education and General Capital Fees until adequate funds have been collected for debt service payments in any given fiscal year.

Table 1

**West Virginia Higher Education Policy Commission
West Virginia Council for Community & Technical College Education
FY 2022 Capital Debt Payment Summary**

	FY 2022 PAYMENTS			Principal Outstanding
	Principal	Interest	Total	
Higher Education Policy Commission System Bonds				
Series 1998 A	\$2,670,000	\$1,149,225	\$3,819,225	\$19,220,000
Series 2000 A	1,797,104	5,002,896	6,800,000	11,947,668
Series 2017 HEPC	<u>1,495,000</u>	<u>439,000</u>	<u>1,934,000</u>	<u>7,285,000</u>
Total University System Bonds	5,962,104	6,591,121	12,553,225	38,452,668
Excess Lottery Revenue Bonds:				
Series 2010 A and B	0	3,823,673	3,823,673	50,265,000
Series 2012 AB	5,600,000	4,394,196	9,994,196	92,170,000
Series 2017 CTC	2,075,000	2,919,500	4,994,500	56,315,000
Series 2017 HEPC	<u>1,865,000</u>	<u>514,750</u>	<u>2,379,750</u>	<u>8,430,000</u>
Total Excess Lottery Revenue Bonds	9,540,000	11,652,119	21,192,119	207,180,000
Total FY 2022 Debt Service Payments	<u>\$15,502,104</u>	<u>\$18,243,240</u>	<u>\$33,745,344</u>	<u>\$245,632,668</u>
 Fund 4903	 13,427,104	 15,323,740	 28,750,844	 189,317,668
Fund 4908	2,075,000	2,919,500	4,994,500	56,315,000
	<u>\$15,502,104</u>	<u>\$18,243,240</u>	<u>\$33,745,344</u>	<u>\$245,632,668</u>

Table 2

**West Virginia Higher Education Policy Commission
West Virginia Council for Community & Technical College Education
FY 2022 Institutional Assessments to Cover System Bond Debt**

Formula based System Bonds Debt Schedule								
Institution	Principal	Interest	Facilities Fee	Square Feet	Percent	Total	1st Half Assessment	2nd Half Assessment
Blue Ridge Community and Technical College	\$0	\$0	\$2,251	145,958	0.51%	\$2,251	\$1,125	\$1,126
Bluefield State College	0	0	5,715	370,571	1.30%	5,715	2,857	2,858
BridgeValley Community and Technical College	0	0	6,465	419,201	1.47%	6,465	3,232	3,233
Concord University	0	0	13,489	874,739	3.06%	13,489	6,745	6,744
Eastern West Virginia Community and Technical College	0	0	927	60,109	0.21%	927	463	464
Fairmont State University	208,260	61,155	21,853	1,417,099	4.95%	291,268	145,634	145,634
Glenville State College	66,551	19,542	12,334	799,828	2.80%	98,427	49,214	49,213
Marshall University	999,148	293,395	83,607	5,421,607	18.95%	1,376,150	688,075	688,075
Mountwest Community and Technical College	59,060	17,343	2,867	185,903	0.65%	79,270	39,635	39,635
New River Community and Technical College	0	0	4,781	310,001	1.08%	4,781	2,390	2,391
Pierpont Community and Technical College	0	0	1,132	73,400	0.26%	1,132	566	566
Shepherd University	0	0	16,334	1,059,224	3.70%	16,334	8,167	8,167
Southern West Virginia Community and Technical College	0	0	4,782	310,084	1.08%	4,782	2,391	2,391
West Liberty University	161,981	47,565	16,467	1,067,822	3.73%	226,013	113,006	113,007
West Virginia Northern Community College	0	0	4,633	300,425	1.05%	4,633	2,316	2,317
West Virginia School of Osteopathic Medicine	0	0	7,197	466,693	1.63%	7,197	3,598	3,599
West Virginia State University	0	0	15,484	1,004,098	3.51%	15,484	7,742	7,742
West Virginia University	4,467,104	6,152,121	215,429	13,969,754	48.84%	10,834,654	5,417,327	5,417,327
WVU Parkersburg	0	0	5,365	347,871	1.22%	5,365	2,682	2,683
Total System Bonds	\$5,962,104	\$6,591,121	\$441,111	28,604,387	#####	\$12,994,336	\$6,497,165	\$6,497,171

**West Virginia Higher Education Policy Commission
Meeting of April 30, 2021**

ITEM: Approval of Energy Savings Projects and Related Financing

INSTITUTION: West Liberty University

RECOMMENDED RESOLUTION: *Resolved, That the West Virginia Higher Education Policy Commission approves the issuance of West Liberty University's Lease Purchase Obligations, Series 2021 and the capital improvements generating energy savings financed by this debt.*

STAFF MEMBER: Ed Magee

BACKGROUND:

West Liberty University seeks Commission approval of the institution's proposed energy savings capital improvements and the related lease purchase financing. The improvements will leverage guaranteed utility and operational cost savings to address critical facility needs that align with the University's long-term facility plans.

This project is the next phase of the University's guaranteed energy savings contract initiated in November 2017 with CMTA. A Heating Ventilation and Air Conditioning (HVAC) renovation and a campus-wide LED lighting project were completed under this contract.

The lease proceeds will be expended for projects with a total estimated cost of \$4,020,000 including the following:

- Heating, ventilation and air conditioning renovations at Main Hall
- New boilers at Main Hall and Library
- Direct digital control systems:
 - Main Hall
 - Athletic, Sports, and Recreation Complex
 - College Hall
 - Campbell Hall

The lease will finance \$3,020,000 of the total cost and the balance will be funded through a zero percent interest Higher Education Policy Commission Energy Savings Loan. McLiney and Company will issue the lease through a competitive process. The savings realized from the energy savings contract will be used to make the principal and interest payments through April 2036. It is anticipated that the interest rate will be about 2.5 percent, and the True Interest Cost, including issuance expenses, will be about 2.8 percent.

The following documents are provided to support this request:

- Resolution
- Proposed Project Financial Pro-Forma
- Aggregation Spreadsheet Report
- Exhibit 1 – Scope of Work
- Draft McLiney and Company Offering Circular
- Lease Purchase Agreement
- Financial Feasibility Study
- Proposed Energy Savings Contract, available at the following link:
<https://www.wvhepc.edu/wp-content/uploads/2021/04/4-Proposed-Form-of-WLU-CMTA-Energy-Savings-Contract-02.19.21.pdf>

**APPROVING RESOLUTION OF THE
HIGHER EDUCATION POLICY COMMISSION**

RESOLUTION APPROVING AND CONFIRMING THE ISSUANCE OF WEST LIBERTY UNIVERSITY'S LEASE PURCHASE OBLIGATIONS, SERIES 2021 (THE "SERIES 2021 OBLIGATIONS"), THE PROCEEDS OF WHICH WILL BE USED TO ACQUIRE, CONSTRUCT, INSTALL AND OTHERWISE IMPLEMENT EQUIPMENT AND OTHER PROPERTY AND CAPITAL IMPROVMENTS IN AN AMOUNT NOT TO EXCEED \$5,500,000 NECESSARY TO GENERATE CAMPUS-WIDE ENERGY SAVINGS (THE "ENERGY SAVINGS PROJECT"); APPROVING THE UNDERTAKING OF THE ENERGY SAVINGS PROJECT BY WEST LIBERTY UNIVERSITY; MAKING CERTAIN DETERMINATIONS WITH RESPECT TO THE SERIES 2021 OBLIGATIONS, THE ENERGY SAVINGS PROJECT, AND AUTHORIZING CERTAIN ACTIONS RELATED THERETO.

WHEREAS, the West Liberty University Board of Governors (the "Board"), as the governing body of West Liberty University (the "University"), has determined the need to implement certain energy conservation measures pursuant to Chapter 5A, Article 3B of the Code of West Virginia of 1931, as amended (the "Energy Savings Act") on a campus-wide basis pursuant to a guaranteed energy savings contract with a Qualified Provider (as defined in Section 1(d) of the Energy Savings Act) to perform capital improvements at the University to generate utility and other cost savings sufficient to offset the cost of such capital improvements (the "Energy Savings Project");

WHEREAS, the Board has determined that it is necessary and desirable to enter into an Equipment Lease/Purchase Agreement by and between the lending institution which will be financing the Energy Savings Project to be undertaken by the Board, as lessor (the "Lender"), and the Board, as lessee, the substantial form of which has been presented to the Commission at the meeting in which this Resolution has been presented for consideration (the "Lease-Purchase Agreement") providing for the (i) financing of the cost necessary to design, acquire, construct and equip the Energy Savings Project, and (ii) payment of the costs of issuance of the Lease-Purchase Agreement and related costs;

WHEREAS, the Board has further determined that the obligations of the Board and the University pursuant to the Lease-Purchase Agreement shall be secured by (i) the Equipment which is to be financed and acquired pursuant to the Lease-Purchase Agreement, and (ii) the Escrow Account which is created pursuant to the Lease-Purchase Agreement (the "Escrow Account");

WHEREAS, the Energy Savings Project will be carried out by CMTA Energy Solutions (the “ESCO”) pursuant to a Guaranteed Energy Savings Contract to be entered into by and between the Board and the ESCO, the substantial form of which has been presented to the Commission at the meeting in which this Resolution is considered for adoption (the “Energy Savings Contract”);

WHEREAS, the Board must obtain the approval of the Commission prior to implementing capital improvement projects on the campus of the University which exceed \$3,000,000 or entering into a Lease-Purchase Agreement for capital improvements or the acquisition of equipment therewith which exceeds \$1,500,000 pursuant to the authority contained in Chapter 18B, Article 19, of the West Virginia Code of 1931, as amended (the “Capital Improvement Act” and together with the Energy Savings Act, the “Acts”);

WHEREAS, the cost of the Energy Savings Project is estimated to exceed \$3,000,000 and the amount of the Lease-Purchase Agreement is estimated to exceed \$1,500,000;

WHEREAS, the financings contemplated by the Lease-Purchase Agreement and completing the Energy Savings Project will be in the University’s best interests;

WHEREAS, the Energy Savings Project is contained in the University’s campus development plan as confirmed by the Commission;

WHEREAS, capitalized terms used and not otherwise defined in this Resolution have the respective meanings given them in the Lease-Purchase Agreement or Energy Savings Contract, as applicable;

WHEREAS, this Commission and the Board have the power and authority to execute and deliver the documents required and to carry out the financings described above; and

WHEREAS, this Commission deems it desirable, in keeping with its purposes and in the best interests of the University, to approve the Energy Savings Project, the Lease-Purchase Agreement, and the financing of the costs of the Energy Savings Project through the Lease-Purchase Agreement and associated financing arrangements.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION, AS FOLLOWS:

Section 1. Approval of the Energy Savings Project. The Commission hereby approves the undertaking by the University of the design, acquisition, construction, equipping and installation of the Energy Savings Project for the purpose of achieving the energy conservation measures contemplated by the Acts.

Section 2. Approval of the Lease-Purchase Agreement. The financing of the Energy Savings Project, including but not limited to costs of issuance, through the execution by the Board of the Lease-Purchase Agreement and associated financing arrangements, in an

aggregate principal amount not to exceed \$5,500,000 is hereby approved. The execution and delivery of the Lease-Purchase Agreement by the appropriate officials of the Board and/or the University is authorized for the purposes, together with other available funds, of financing (i) the Energy Savings Project, and (ii) paying the costs of issuance in connection with the Lease-Purchase Agreement and related costs. The obligations of the Board and the University under the Lease-Purchase Agreement and associated financing arrangements shall be secured by the Equipment which is acquired pursuant to the Lease-Purchase Agreement, by the Escrow Account created and described pursuant to the Lease-Purchase Agreement and any other collateral which is described in the Lease-Purchase Agreement. The Lease-Purchase Agreement shall be approved as to form by the Office of the West Virginia Attorney General prior to the execution and delivery of the same. The Lease-Purchase Agreement is hereby authorized and approved for use by the Board in implementing the Energy Savings Project in substantially the form presented to the Board at the meeting in which this Resolution has been considered for approval.

Without limiting the generality of the foregoing, this Commission hereby finds that it has made the evaluations required by Chapter 18B, Article 19, Subsection 6(c) of the Code of West Virginia, 1931, as amended, and further finds as follows:

A. The University has sufficient debt capacity and the ability to meet the debt service payments for the full term of the financing contemplated by the Lease-Purchase Agreement.

B. The University has the capacity to generate revenue sufficient to complete the Projects;

C. The University has the ability to fund ongoing operations and maintenance; and

D. The financing contemplated by the Lease-Purchase Agreement will not materially impact the University's students who will benefit from the proceeds of the financing contemplated by the Lease-Purchase Agreement due to enhanced educational opportunities as a result of the financing.

Section 3. Special Obligations. This Commission recognizes and agrees that all covenants, stipulations, obligations and agreements of the Board or the University entered in connection with the financing contemplated by the Lease-Purchase Agreement shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the Board and the University to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Board and the University, and their respective successors. No covenant, stipulation, obligation or agreement entered in connection with the Energy Savings Project or the Lease-Purchase Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Board or the University in his or her individual capacity. The financing contemplated by the Lease-Purchase Agreement is a special obligation of the Board, payable solely from and secured by the Lease-Purchase Agreement and the Escrow Account created thereunder. The financing contemplated by the Lease-Purchase Agreement, together with the interest thereon, is a special

obligation of the Board and shall not constitute a debt of the Board or the University, and the credit or taxing power of the State, the Board or the University shall not be pledged therefor, but the financing contemplated by the Lease-Purchase Agreement shall be payable only from the sources described in the Lease-Purchase Agreement and the Energy Savings Contract. No recourse shall be had for the payment of the principal of, premium, if any, or interest on the financing contemplated by the Lease-Purchase Agreement or for any claim based thereon, on this Resolution or on any of the documents executed in connection therewith against any official, member, officer or employee of this Commission, the Board, the University or the State or any person executing the Lease-Purchase Agreement and associated documents, and neither members of the Commission or the Board nor any person executing the Lease-Purchase Agreement shall be liable personally by reason of the execution and delivery thereof.

Section 5. **Incidental Action.** The Chancellor, the Chairperson, Vice-Chairperson, Secretary and other appropriate members and officers of this Commission are hereby authorized and directed to execute and deliver any documents, certificates, agreements, and instruments and take such other actions as may be required or desirable by the Board or the University to carry out the purposes of this Resolution.

Section 6. **Effective Date.** This Resolution shall take effect immediately upon adoption.

[Remainder of Page Intentionally Left Blank]

Adopted this 30th day of April, 2021.

**WEST VIRGINIA HIGHER EDUCATION
POLICY COMMISSION**

By: _____
Its: _____

CERTIFICATION

The undersigned, being the duly qualified, elected and acting Secretary of the Higher Education Policy Commission does hereby certify that the foregoing Resolution was duly adopted by the members of the Commission at a regular meeting duly held, pursuant to proper notice thereof, on April 30, 2021, at Charleston, West Virginia, a quorum being present and acting throughout, and which Resolution is a true, correct and complete copy thereof as witness my hand and the seal of the Commission this April 30, 2021.

Secretary, Higher Education Policy
Commission

PROPOSED PROJECT FINANCIAL PRO-FORMA											
COST INPUTS						SAVINGS INPUTS					
Project Cost					\$ 3,943,183	Annual Guaranteed Electric Savings		\$ 119,000	Annual Guaranteed Gas Savings		\$ 19,000
HEPC Funding - 2nd					\$ 1,000,000	Electric Escalation Rate		3.00%	Gas Escalation Rate		3.00%
Capital Lease					\$ 2,943,183	Annual O&M Savings		\$ -	Annual Guaranteed Water Savings		\$ 180,000
Cost of Issuance					\$ 75,500	O&M Rate Escalation		2.00%	Water Escalation Rate		3.00%
Interest Rate					2.50%	% of Project Funded from Savings					184%
Lease Purchase Financing Term (Years)					15						
YEAR	1st HEPC Payments	2nd HEPC Payments	LEASE PAYMENT	M&V	TOTAL COST	GUARANTEED SAVINGS	⁽¹⁾ ACTUAL & ANTICIPATED EXCESS SAVINGS	TOTAL COST SAVINGS	CASH FLOW	CUMULATIVE CASH FLOW	
2020	\$ 100,000	\$ -	\$0	\$0	\$100,000	\$0	\$399,518	\$399,518	\$299,518	\$299,518	
⁽²⁾ 2021	\$ 200,000	\$ 50,000	\$37,750	\$0	\$287,750	\$159,000	\$365,603	\$524,603	\$236,853	\$536,371	
2022	\$ 200,000	\$ 100,000	\$75,500	\$9,000	\$384,500	\$327,540	\$212,801	\$540,341	\$155,841	\$692,212	
2023	\$ 200,000	\$ 100,000	\$75,500	\$9,270	\$384,770	\$337,366	\$219,185	\$556,551	\$171,781	\$863,993	
2024	\$ 200,000	\$ 100,000	\$75,500	\$9,548	\$385,048	\$347,487	\$225,760	\$573,248	\$188,200	\$1,052,192	
2025	\$ 100,000	\$ 100,000	\$144,625	\$9,835	\$354,460	\$357,912	\$232,533	\$590,445	\$235,985	\$1,288,178	
2026		\$ 100,000	\$251,500	\$10,130	\$361,630	\$368,649	\$239,509	\$608,158	\$246,529	\$1,534,707	
2027		\$ 100,000	\$271,688	\$10,433	\$382,121	\$379,709	\$246,695	\$626,403	\$244,282	\$1,778,989	
2028		\$ 100,000	\$276,438	\$10,746	\$387,184	\$391,100	\$254,095	\$645,195	\$258,011	\$2,037,000	
2029		\$ 100,000	\$276,000	\$11,069	\$387,069	\$402,833	\$261,718	\$664,551	\$277,482	\$2,314,482	
2030		\$ 100,000	\$275,438	\$11,401	\$386,838	\$414,918	\$269,570	\$684,488	\$297,649	\$2,612,131	
2031		\$ 50,000	\$324,125	\$11,743	\$385,868	\$427,365	\$277,657	\$705,022	\$319,154	\$2,931,286	
2032			\$371,438	\$12,095	\$383,533	\$440,186	\$285,987	\$726,173	\$342,640	\$3,273,926	
2033			\$372,938	\$12,458	\$385,396	\$453,392	\$294,566	\$747,958	\$362,563	\$3,636,488	
2034			\$374,188	\$12,832	\$387,019	\$466,994	\$303,403	\$770,397	\$383,378	\$4,019,866	
2035			\$375,188	\$13,217	\$388,404	\$481,004	\$312,505	\$793,509	\$405,104	\$4,424,970	
⁽³⁾ 2036			\$227,813	\$0	\$227,813	\$247,717	\$569,597	\$817,314	\$589,502	\$5,014,472	
Total	\$ 1,000,000	\$ 1,000,000	\$3,805,625	\$153,777	\$5,959,402	\$6,003,171	\$4,970,702	\$10,973,874	\$5,014,472		

(1) Construction for phase 1 began in May 2020. 8 Months of utility savings from utility bills total \$399,518. The anticipated excess savings are shown for years 2021 through 2036.

(2) Year 2021 accounts for six months of guaranteed construction period savings. Anticipated savings for calander year 2021 will be \$524,603

(3) Year 2036 accounts for six months of guaranteed savings in order to complete the 15 year project term.

The anticipated cost savings realized during this calendar year will be \$817,314.

WEST LIBERTY UNIVERSITY
Aggregation Spreadsheet Report

Data are Debt Service Amounts

HEPC Loans Combined

Data are to Maturity

FY Ends 12/31	Totals	NEW20HEPC	NEW21HEPC					
09/30/2020	100,000.00	100,000.00						
03/31/2021	100,000.00	100,000.00						
09/30/2021	150,000.00	100,000.00	50,000.00					
03/31/2022	150,000.00	100,000.00	50,000.00					
09/30/2022	150,000.00	100,000.00	50,000.00					
03/31/2023	150,000.00	100,000.00	50,000.00					
09/30/2023	150,000.00	100,000.00	50,000.00					
03/31/2024	150,000.00	100,000.00	50,000.00					
09/30/2024	150,000.00	100,000.00	50,000.00					
03/31/2025	150,000.00	100,000.00	50,000.00					
09/30/2025	50,000.00		50,000.00					
03/31/2026	50,000.00		50,000.00					
09/30/2026	50,000.00		50,000.00					
03/31/2027	50,000.00		50,000.00					
09/30/2027	50,000.00		50,000.00					
03/31/2028	50,000.00		50,000.00					
09/30/2028	50,000.00		50,000.00					
03/31/2029	50,000.00		50,000.00					
09/30/2029	50,000.00		50,000.00					
03/31/2030	50,000.00		50,000.00					
09/30/2030	50,000.00		50,000.00					
03/31/2031	50,000.00		50,000.00					
Totals	\$2,000,000.00	\$1,000,000.00	\$1,000,000.00					
Component	Principal Amt	----- Title -----		P or I Flag	Bias Days	Date From	Date To	Proration %
NEW20HEPC	\$1,000,000.00	\$1,000,000 0% HEPC Loan Series 2020		P&I	0	01/01/1900	12/31/2199	100.000
NEW21HEPC	\$1,000,000.00	\$1,000,000 HEPC LOAN Series 2021		P&I	0	01/01/1900	12/31/2199	100.000

WLU: AGG21HEPC

Prepared by: McLiney And Company

02/05/2021 @ 10:31 v11.01

WEST LIBERTY UNIVERSITY

Dated Date = 04/01/2021

LEASE PURCHASE SERIES 2021

Delivery Date = 04/01/2021

Maturity Dates	Term Bond Maturities	Bond Redemptions	Proceeds	Coupon Rate	Yield	Price	Interest Amount	Total Debt Service	FY(ends 12/31) Debt Service
10/01/2021	-	-	-	-	-	-	37,750.00	37,750.00	37,750.00
04/01/2022	-	-	-	2.500	2.500000	100.000000	37,750.00	37,750.00	-
10/01/2022	-	-	-	-	-	-	37,750.00	37,750.00	75,500.00
04/01/2023	-	-	-	2.500	2.500000	100.000000	37,750.00	37,750.00	-
10/01/2023	-	-	-	-	-	-	37,750.00	37,750.00	75,500.00
04/01/2024	-	-	-	2.500	2.500000	100.000000	37,750.00	37,750.00	-
10/01/2024	-	-	-	-	-	-	37,750.00	37,750.00	75,500.00
04/01/2025	-	90,000.00	90,000.00	2.500	2.500000	100.000000	37,750.00	127,750.00	-
10/01/2025	-	-	-	-	-	-	36,625.00	36,625.00	164,375.00
04/01/2026	-	190,000.00	190,000.00	2.500	2.500000	100.000000	36,625.00	226,625.00	-
10/01/2026	-	-	-	-	-	-	34,250.00	34,250.00	260,875.00
04/01/2027	-	190,000.00	190,000.00	2.500	2.500000	100.000000	34,250.00	224,250.00	-
10/01/2027	-	-	-	-	-	-	31,875.00	31,875.00	256,125.00
04/01/2028	-	195,000.00	195,000.00	2.500	2.500000	100.000000	31,875.00	226,875.00	-
10/01/2028	-	-	-	-	-	-	29,437.50	29,437.50	256,312.50
04/01/2029	-	200,000.00	200,000.00	2.500	2.500000	100.000000	29,437.50	229,437.50	-
10/01/2029	-	-	-	-	-	-	26,937.50	26,937.50	256,375.00
04/01/2030	-	205,000.00	205,000.00	2.500	2.500000	100.000000	26,937.50	231,937.50	-
10/01/2030	-	-	-	-	-	-	24,375.00	24,375.00	256,312.50
04/01/2031	-	265,000.00	265,000.00	2.500	2.500000	100.000000	24,375.00	289,375.00	-
10/01/2031	-	-	-	-	-	-	21,062.50	21,062.50	310,437.50
04/01/2032	-	320,000.00	320,000.00	2.500	2.500000	100.000000	21,062.50	341,062.50	-
10/01/2032	-	-	-	-	-	-	17,062.50	17,062.50	358,125.00
04/01/2033	-	330,000.00	330,000.00	2.500	2.500000	100.000000	17,062.50	347,062.50	-
10/01/2033	-	-	-	-	-	-	12,937.50	12,937.50	360,000.00
04/01/2034	-	335,000.00	335,000.00	2.500	2.500000	100.000000	12,937.50	347,937.50	-
10/01/2034	-	-	-	-	-	-	8,750.00	8,750.00	356,687.50
04/01/2035	-	345,000.00	345,000.00	2.500	2.500000	100.000000	8,750.00	353,750.00	-
10/01/2035	-	-	-	-	-	-	4,437.50	4,437.50	358,187.50
04/01/2036	-	355,000.00	355,000.00	2.500	2.500000	100.000000	4,437.50	359,437.50	359,437.50
Total	-	3,020,000.00	3,020,000.00				797,500.00	3,817,500.00	3,817,500.00
Acc Int	-	-	-				-	-	-
Grand Ttls	-	3,020,000.00	3,020,000.00				797,500.00	3,817,500.00	3,817,500.00
TIC (Incl. all expenses) 2.77807060% Average Coupon 2.50000000% TIC (Arbitrage TIC) 2.50000000% Average Life (yrs) ... 10.56 IRS Form 8038-G NIC = 2.500000% (with Adjstmnt of \$0.00). Bond Years 31,900.00 WAM (yrs) 10.562914 NIC = 2.500000% (with Adjstmnt of \$0.00).									

WLU: NEW21

Prepared by: McLiney And Company

02/05/2021 @ 10:31 v11.01

WEST LIBERTY UNIVERSITY

Current Debt plus New Debt

LEASE PURCHASE SERIES 2021

Dated Date 04/01/2021

Delivery Date 04/01/2021

Year Ending 12/31	Current Debt Requirement	New Principal Due 04/01	Interest @ 2.500% Due 04/01	Interest @ 2.500% Due 10/01	Total New Interest	Total New Principal & Interest	Total Debt Service Requirement
2020	100,000						100,000
2021	250,000			37,750	37,750	37,750	287,750
2022	300,000		37,750	37,750	75,500	75,500	375,500
2023	300,000		37,750	37,750	75,500	75,500	375,500
2024	300,000		37,750	37,750	75,500	75,500	375,500
2025	200,000	90,000	37,750	36,625	74,375	164,375	364,375
2026	100,000	190,000	36,625	34,250	70,875	260,875	360,875
2027	100,000	190,000	34,250	31,875	66,125	256,125	356,125
2028	100,000	195,000	31,875	29,438	61,313	256,313	356,313
2029	100,000	200,000	29,438	26,938	56,375	256,375	356,375
2030	100,000	205,000	26,938	24,375	51,313	256,313	356,313
2031	50,000	265,000	24,375	21,063	45,438	310,438	360,438
2032		320,000	21,063	17,063	38,125	358,125	358,125
2033		330,000	17,063	12,938	30,000	360,000	360,000
2034		335,000	12,938	8,750	21,688	356,688	356,688
2035		345,000	8,750	4,438	13,188	358,188	358,188
2036		355,000	4,438		4,438	359,438	359,438
Totals	\$2,000,000	\$3,020,000	\$398,753	\$398,753	\$797,503	\$3,817,503	\$5,817,503

NEW21190001012199 Dated Date: 04/01/2021 Principal Due Dates: 04/01/2025 - 04/01/2036 Maturing Amount: 3,020,000.00

WEST LIBERTY UNIVERSITY
Sources & Uses Report

Sources of Funds:

Principal Amount of Current Interest Bonds (CIBs)	3,020,000.00
HEPC Loan at 0%	1,000,000.00
Total SOURCES of Funds	\$4,020,000.00

Uses of Funds:

Construction Fund	3,943,183.00
Issuance Expenses: (\$75,500.00)	
Cost of Issuance	75,500.00
Rounding Amount	1,317.00
Total USES of Funds	\$4,020,000.00

Miscellaneous Bond Issuance Information:

Delivery Date:	04/01/2021
	-
Principal Amount of the New Money Bonds	3,020,000.00
Proceeds of "The (new) Bonds"	3,020,000.00
	-
"All Costs Included" TIC on the New Issue is	2.77807060%
Federal Arbitrage Yield on the New Issue is	2.50000000%

Scope of Services and Energy Conservation Measures:

A description of each Energy Conservation Measure (ECM) is organized in the following categories:

HVAC Replacements & Upgrades

- H.1 HVAC System and Equipment Replacements

Controls Replacements & Upgrades

- C.1 New Controls
- C.2 Controls Integration

H.1: HVAC System Renovation

The HVAC System Upgrade design drawings and specifications detail the specifics of the scope of services and ECMs at each building. A summary of the work to be performed at each building is outlined below.

Main Hall – Equipment and Controls Replacement

Existing HVAC and controls infrastructure will be replaced and reused as follows:

1. Remove and replace existing HVAC terminal units to increase occupant thermal comfort and optimize energy and cost savings.
2. Remove existing hot water plant and install new boiler plant.
3. Reuse existing Chilled water plant, VAV Rooftop Units, East Wing VAV boxes, IT Glycol Cooler, Fin tube radiators and split systems.
4. Remove pneumatic compressor and install new DDC controls system to control: existing chilled water plant, existing VAV AHUs, existing East Wing VAV boxes, new AHUs, new boilers, new pumps, new VAV boxes, new fan coil units, new unit ventilators.
5. New dedicated outdoor air units.

C.1: New Controls & C.2 Controls Integrations

Control System Upgrade drawings and specifications detail the specifics of the scope of services and ECMs at each building. A summary of the controls scope of work that will be implemented at each building is summarized below.

- **ASRC:** New DDC controls will be installed to control existing HVAC.
- **College Hall:** New DDC controls will be installed to control existing packaged rooftop units.
- **Campbell Hall:** Integrate existing controls system into new DDC front end.

**New Issue/Bank Qualified****Preliminary: 03/10/2021****\$3,020,000*****TAX- EXEMPT**

**LEASE PURCHASE OBLIGATIONS, SERIES 2021
BOARD OF GOVERNORS OF WEST LIBERTY UNIVERSITY
STATE OF WEST VIRGINIA**

Dated: Date of Delivery**Due:** June 1, as shown below

These Lease Purchase Obligations (the “Obligations”) are being issued as fully registered obligations in denominations of \$100,000 or any integral multiple thereof. Interest on the Obligations is first payable December 1, 2021, and on each June 1 and December 1 thereafter. Principal and interest on the Obligations will be payable through an institution to be named at a later date.

Serial Principal Maturities of the Obligations

<u>Principal Amount</u>	<u>Maturity</u>	<u>Price</u>	<u>Principal Amount</u>	<u>Maturity</u>	<u>Price</u>	<u>Principal Amount</u>	<u>Maturity</u>	<u>Price</u>
\$70,000	06/01/2025	100.00	\$220,000	06/01/2029	100.00	\$345,000	06/01/2033	100.00
\$180,000	06/01/2026	100.00	\$225,000	06/01/2030	100.00	\$355,000	06/01/2034	100.00
\$205,000	06/01/2027	100.00	\$280,000	06/01/2031	100.00	\$365,000	06/01/2035	100.00
\$215,000	06/01/2028	100.00	\$335,000	06/01/2032	100.00	\$225,000	06/01/2036	100.00

Callable: To be determined.

Purpose: The Board of Governors (the “Board”) of West Liberty University (the “University” and collectively with the Board, the “Lessee”) desires to make approximately \$4,020,000 of energy saving improvements throughout the University through issuance of this Obligation and a \$1,000,000, zero-interest loan from the West Virginia Higher Education Policy Commission’s (HEPC) Energy and Water Savings Revolving Loan Program. The West Liberty University Guaranteed Energy Savings Contract (GES) project started in November of 2017 after the University solicited competitive Request for Proposals to develop a comprehensive Guaranteed Energy Savings Contract. The goal of the project was to leverage guaranteed utility and operational cost savings to address critical facility needs that aligned with the University’s long-term facility plans. After a detailed and comprehensive vetting process, that included auditing over one million square feet of facilities, completing a two-phase HVAC renovation, and a campus wide LED lighting project, the Board has approved moving forward with a \$4,020,000 project that includes a package of Energy Conservation Measures (ECMs) and infrastructure improvements. Some of the highlights of the project include a comprehensive HVAC renovation at Main Hall, four new boilers serving Main Hall and the Library and the installation of modern Direct Digital Control (DDC) systems at four facilities.

Security: The Obligations shall be issued under, and shall be secured by, an Equipment Lease/Purchase Agreement by and between the purchaser of the Obligations, as lessor (the “Lessor” or “Purchaser”), and the Lessee, as lessee (the “Agreement”). Pursuant to the Agreement, the University will make Rental Payments consisting of both principal and interest over the life of the Agreement to the Purchaser. The Agreement is structured in a manner which is intended to comply with applicable provisions of Chapter 5A, Article 3B, Chapter 18B, Article 19 and other applicable provisions of West Virginia law. Under applicable West Virginia law, the obligation created by the Agreement is limited and not a general obligation of the Board or the University, the same does not constitute an indebtedness of the Lessee under the constitution and laws of the State and is not secured by the full faith and credit of the Lessee. Payment is thus subject to annual appropriation by the Lessee. Furthermore, a deed of trust securing real property will not be granted by the Lessee to secure repayment of the Obligations. However, pursuant to the Agreement, the Lessee will grant a security interest under Article 9 of the West Virginia Commercial Code (Chapter 46, Article 9) in and to the Equipment which is to be financed and acquired pursuant to the Agreement and in and to the Escrow Account which is created pursuant to the Agreement and the Escrow and Account Control Agreement (the “Escrow Agreement”) to be executed by the Lessee and the financial institution which will create and maintain the Escrow Account for the Obligations (the “Escrow Account”).

The Equipment list and additional information pertaining to this project will be made available upon request.

**Preliminary, subject to change*

Bond Counsel: Steptoe & Johnson PLLC, Bridgeport, WV

Delivery: To be determined.

The

University: West Liberty University is a forward-looking, four-year public university steeped in a rich heritage as West Virginia's oldest institution of higher education. Established as West Liberty Academy in 1837 (26 years before the state was admitted to the Union), it was created to respond to the need for higher educational opportunities west of the Appalachian Ridge. West Liberty Academy transitioned into West Liberty State Teachers College and eventually into West Liberty State College. In 2008, West Liberty State College was approved to become a University by the West Virginia Higher Education Policy Commission. In May 2009, the Board of Governors approved the change to West Liberty University.

West Liberty University is located in the City of West Liberty, West Virginia, within Ohio County. It is approximately 190 miles northeast of Charleston, West Virginia, the State Capital, 53.8 miles southwest of Pittsburgh, Pennsylvania and 18.4 miles southeast of Steubenville, Ohio. The University is part of the Wheeling, WV-OH Metropolitan Statistical Area and has direct access to State Highways 88 and 55, with easy access to Interstate 70 and US Highway 40.

The University serves approximately 2,500 students representing 29 states, the District of Columbia and 30 countries. The bulk of the University's student body comes from the Northern Panhandle of West Virginia, eastern Ohio and western Pennsylvania. 91% of University students receive some type of financial aid with over \$5.5 million awarded annually in scholarships.

The University grants baccalaureate degrees in elementary and secondary education, arts and sciences, business administration, health sciences as well as graduate degrees in education, professional studies, physician assistant studies, business administration, biology and criminology. The University offers more than 70 undergraduate majors including a number of graduate programs, and an online MBA program.

Athletic teams, known as the Hilltoppers, are charter members of the NCAA Division II Mountain East Conference with nearly 400 student-athletes participating in 18 intercollegiate sports, including football, basketball, wrestling, track, tennis and baseball.

Students participate in a wide variety of extra-curricular activities including, but not limited to, academic and professional clubs, academic/service honor societies, Greek organizations, religious life, student media/publications and special interest groups.

Currently the University employs 144 full-time and 76 part-time faculty members with a student to faculty ratio of 15:1, and an average class size of 25 students. The University consists of fifty buildings spread across its campus, encompassing 290 acres.

Accreditation: The Higher Learning Commission, 230 LaSalle Street, Suite 7-500, Chicago, IL 60604

Enrollment:

	<u>Undergraduate</u>	<u>Graduate</u>
Full-Time Students	1,767	80
Part-Time Students	416	73

Tuition:

	<u>Undergraduate</u>	<u>Undergraduate</u>	<u>Graduate</u>
	<u>Full- Time</u>	<u>Per Credit Hour</u>	<u>Per Credit Hour</u>
Tuition In-District:	\$8,150	\$333	\$460
In-State (Out of District):	\$8,150	\$333	\$460
Out of State:	\$16,090	\$664	\$550

Note: The tuition shown above does not include room, board, books or supplies.

Information provided by <https://westliberty.edu>

Financial Information

Construction Fund:	\$3,943,183
Cost of Issuance (Estimated and not to exceed):	\$75,500
Rounding Amount:	<u>\$1,317</u>
Total:	\$4,020,000

Use of Series 2021 Lease Purchase Proceeds

Series 2021 Lease Purchase:	\$3,020,000
WV HEPC (0% Loan Program):	<u>1,000,000</u>
Total:	\$4,020,000

Outstanding Debt as of April 1, 2021	
Series 2012 Revenue Bonds (Retires in 2027):	\$5,595,000
Series 2013 Refunding Revenue Bonds (Retires in 2028):	5,530,000
Series 2018 Capital Improvement Revenue Bonds (Retires in 2038) :	4,940,000
Series 2020 WV HEPC Zero Interest Loan :	<u>\$1,000,000</u>
Total :	\$17,065,000

Audited Financials:

Years ended June 30, 2020 and 2019

[Microsoft Word - {597F1AAF-4E83-419A-A4BC-26C6AAC318D4} \(wvhepc.edu\)](#)

Years ended June 30, 2019 and 2018

[Microsoft Word - {597F1AAF-4E83-419A-A4BC-26C6AAC318D4} \(wvhepc.edu\)](#)

Years ended June 30, 2018 and 2017

[Microsoft Word - {597F1AAF-4E83-419A-A4BC-26C6AAC318D4}.doc \(wvhepc.edu\)](#)

THE INFORMATION CONTAINED IN THIS CIRCULAR, WHILE NOT GUARANTEED, IS TAKEN FROM SOURCES WHICH WE CONSIDER RELIABLE. ALL OFFERINGS ARE SUBJECT TO PRIOR SALE OR CHANGE IN PRICE.



WHEELING, WV-OH METROPOLITAN STATISTICAL AREA ECONOMIC AND DEMOGRAPHIC DATA

- General:** The Wheeling, WV-OH Metropolitan Statistical Area (MSA) is defined by the United States Census Bureau as an area consisting of two counties in the Northern Panhandle of West Virginia and one in eastern Ohio, anchored by the City of Wheeling, West Virginia. The counties within the MSA include Marshall and Ohio Counties located in West Virginia and Belmont County in the State of Ohio. The estimated population of the MSA is 140,045 and consists of approximately 962 square miles. Major highways include: I70, I470, US40, US250, WV2, WV7 and WV88
- County Seats:** City of Wheeling, WV (Ohio County); City of Moundsville, WV (Marshall County) and City of St. Clairsville, OH (Belmont County).
- Commissioners:** Ohio County: Tim McCormick, Randy Wharton and Donald Nickerson
Marshall County: Scott Varner, John Gruzinskas and Michael Ferro
Belmont County: J.P. Dutton, Jerry Echemann and Josh Meyer

POPULATION				
Year	MSA	Ohio County	West Virginia	United States
2015	144,144	42,996	1,841,996	320,742,673
2016	142,946	42,666	1,830,929	323,071,342
2017	141,228	42,056	1,817,048	325,147,121
2018	140,045	41,755	1,805,532	327,167,434
2019	138,948	41,411	1,792,147	328,239,523

Source: U.S. Department of Commerce, Bureau of Economic Analysis

Per Capita Personal Income			
County	2014	2019	Wv Rank (55 Counties)
MSA	\$39,272	\$49,301	
Ohio County	\$44,116	\$64,461	1
West Virginia	\$36,152	\$42,315	-
United States	\$47,071	\$56,490	-

Source: U.S. Department of Commerce, Bureau of Economic Analysis

Average Annual Unemployment Rates (%) – Not Seasonally Adjusted				
Year	MSA	Ohio County	West Virginia	United States
2015	6.4	4.8	6.0	4.8
2016	5.9	4.6	5.1	4.5
2017	5.1	4.2	5.1	3.9
2018	4.9	3.8	4.7	3.7
2019	5.7	4.5	5.0	3.6

Source: U.S. Department of Labor, Bureau of Labor Statistic

Largest Employers within the Metropolitan Statistical Area

Ohio County, WV	1. Wheeling Hospital, Inc.
	2. Ohio County Board of Education
	3. Alecto Health Care Services (Ohio Valley Medical Center)
Marshall County, WV	1. Murray American Energy, Inc.
	2. Marshall County Board of Education
	3. WVU Medicine
Belmont County, OH	1. Barnesville Hospital Association
	2. Belmont Community Hospital
	3. East Ohio Regional Hospital

Source: WORKFORCE West Virginia and OhioSE Economic Development

Average Employment

County	2014	2016	2019
MSA	62,700	61,100	62,200
Ohio County	19,830	19,480	20,410
West Virginia	736,500	734,500	757,900

Source: WORKFORCE West Virginia

Average Weekly Wage

County	2014	2016	2019
MSA	\$865.46	\$820.95	\$984.80
Ohio County	\$734.27	\$769.86	\$841.79
West Virginia	\$790.25	\$799.90	\$893.05

Source: WORKFORCE West Virginia

Average Annual Employment by Industry (2018)

Industry	Total Wages (\$)	Average Weekly Wage (\$)
Construction	25,725,677	1,061.74
Manufacturing	107,361,353	1,120.26
Trade, Transportation & Utilities	93,239,100	641.98
Information	8,718,154	1,210.52
Financial Activities	24,562,672	841.99
Prof. & Business Services	55,069,823	769.09
Education & Health Services	112,075,521	679.16
Leisure & Hospitality	33,363,487	307.00
Other Services	12,182,013	427.11
Government	83,336,617	666.03
Private Sector	549,468,010	762.47

Source: WORKFORCE West Virginia

Total Wages (\$)

Year	MSA	Ohio County	West Virginia
2014	2,603,431,860	1,109,565,828	28,839,679,821
2015	2,626,176,797	1,161,496,340	29,063,859,298
2016	2,575,378,114	1,161,063,828	28,560,707,319
2017	2,779,263,599	1,217,266,619	29,626,307,630
2018	3,173,942,539	1,233,227,414	31,965,019,645

Source: WORKFORCE West Virginia

**EQUIPMENT LEASE-PURCHASE AGREEMENT
(ESCROW ACCOUNT)**

This Equipment Lease-Purchase Agreement (this “*Agreement*”) dated as of _____, 2021, and entered into between _____, a [state] corporation (the “*Lessor*”), and the Board of Governors (the “*Board*”) of West Liberty University (the “*University*” or “*Lessee*”), on behalf of the University, a public institution of higher learning existing under the laws of the State of West Virginia.

WITNESSETH:

WHEREAS, Lessee desires to lease and acquire from Lessor certain Equipment (as such term is defined herein), subject to the terms and conditions hereof;

WHEREAS, Lessee is authorized under the constitution of the State of West Virginia, and pursuant to the authority contained in Chapter 18B, Articles 10 and 19 of the Code of West Virginia, 1931, as amended, to enter into this Agreement for the purposes set forth herein.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

“*Acquisition Amount*” means \$_____. The Acquisition Amount is the amount represented by Lessee to be sufficient, together with proceeds from Lessee, if any, to acquire the Equipment.

“*Acquisition Period*” means the period ending five (5) business days prior to _____, 2021.

“*Agreement*” means this Equipment Lease-Purchase Agreement, including the exhibits hereto, together with any amendments and modifications to the Agreement pursuant to Section 13.04.

“*Budget Officer*” means the Lessee’s administrative officer(s) from time to time charged with preparing the Lessee’s draft budget as initially submitted to the Lessee for its consideration.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder.

“Commencement Date” means the date when Lessee’s obligation to pay rent commences hereunder, which shall be the date on which the Acquisition Amount is deposited with the Escrow Agent.

“Contract Rate” means the rate identified as such in the Payment Schedule.

“Equipment” means the property listed in the Equipment Schedule and all replacements, repairs, restorations, modifications, and improvements thereof or thereto made pursuant to Section 8.01 or Article V. Whenever reference is made in this Agreement to Equipment, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such Equipment.

“Equipment Costs” means the total cost of the Equipment, including related costs such as freight, installation and applicable taxes, capitalizable costs, and costs of issuance incurred in connection with the acquisition and/or financing of the Equipment.

“Equipment Schedule” means the equipment schedule attached hereto as Exhibit A and made a part hereof.

“Escrow Account” means the fund established and held by the Escrow Agent pursuant to the Escrow Agreement, if any.

“Escrow Agent” means the Escrow Agent identified in the Escrow Agreement, and its successors and assigns.

“Escrow Agreement” means the Escrow and Account Control Agreement substantially in the form attached hereto as Exhibit I and made a part hereof acceptable to and executed by Lessee, Lessor and the Escrow Agent, pursuant to which an Escrow Account is established and administered.

“Event of Default” means an Event of Default described in Section 12.01.

“Event of Non-appropriation” means the failure of Lessee’s governing body to appropriate or otherwise make available funds to pay Rental Payments under this Agreement following the Original Term or then current Renewal Term sufficient for the continued performance of this Agreement by Lessee.

“Event of Taxability” means a determination that the interest component of Rental Payments and any charge on Rental Payments or other amounts payable based on the Contract Rate is includible for federal income tax purposes in the gross income of the owner thereof due to Lessee’s action or failure to take any action.

“Lease Term” means the Original Term and all Renewal Terms, with a final Renewal Term ending on [insert date which is 15 years after commencement date].

“Lessee” means the entity referred to as Lessee in the first paragraph of this Agreement.

“Lessor” means (a) the entity referred to as Lessor in the first paragraph of this Agreement or (b) any assignee or transferee of any right, title or interest of Lessor in and to this Agreement, including the Equipment, the Rental Payments and other amounts due hereunder, pursuant to Section 11.01, or the Escrow Account, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform hereunder.

“Material Adverse Change” means any change in Lessee’s creditworthiness that could reasonably have a material adverse effect on (i) the financial condition or operations of Lessee, or (ii) Lessee’s ability to perform its obligations under this Agreement.

“Original Term” means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at such Commencement Date.

“Outstanding Balance” means the amount that is shown for each Rental Payment Date under the column titled “Outstanding Balance” on the Payment Schedule.

“Payment Schedule” means the payment schedule attached hereto as Exhibit B and made a part hereof.

“Prepayment Price” means the amount that is shown for each Rental Payment Date under the column titled “Prepayment Price” on the Payment Schedule.

“Renewal Terms” means the renewal terms of this Agreement, each having a duration of one year and a term coextensive with Lessee’s fiscal year.

“Rental Payment Date” means each date on which Lessee is required to make a Rental Payment under this Agreement as specified in the Payment Schedule.

“Rental Payments” means the basic rental payments payable by Lessee hereunder pursuant to Section 4.01, consisting of a principal component and an interest component.

“SEC” means the U.S. Securities and Exchange Commission.

“State” means the State of West Virginia.

“Taxable Rate” means an interest rate equal to the Contract Rate plus a rate sufficient such that the total interest to be paid on any payment date would, after such interest was reduced by the amount of any Federal, state or local income tax (including any interest, penalties or additions to tax) actually imposed thereon, equal the amount of interest otherwise due to Lessor.

“Vendor” means the manufacturer, installer or supplier of the Equipment or any other person as well as the agents or dealers of the manufacturer, installer or supplier with whom Lessee arranged its acquisition, installation, maintenance and/or servicing of the Equipment.

“Vendor Agreement” means any contract entered into by Lessee and any Vendor for the acquisition, installation, maintenance and/or servicing of the Equipment.

ARTICLE II

Section 2.01. Representations and Covenants of Lessee. Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(a) Lessee is duly organized and existing under the constitution and laws of the State, with full power and authority to enter into this Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.

(b) Lessee has duly authorized the execution and delivery of this Agreement and the Escrow Agreement by proper action of its governing body at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Escrow Agreement.

(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof. No Event of Non-appropriation has occurred or is threatened with respect to this Agreement.

(d) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as an institution of higher education and public body corporate and politic, constituting a public corporation and a governmental instrumentality of the State.

(e) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment.

(f) During the Lease Term, the Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority. Lessee does not intend to sell or otherwise dispose of the Equipment or any interest therein prior to the last Rental Payment (including all Renewal Terms) scheduled to be paid hereunder.

(g) Lessee has kept, and throughout the Lease Term shall keep, its books and records in accordance with applicable generally accepted accounting principles or such other practice or norms consistently applied by Lessee in accordance with applicable State laws, and shall deliver to Lessor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows, and (4) as applicable, footnotes, schedules and attachments to the financial statements (or such comparable financial statements as are required by applicable state laws or governmental accounting standards) on or before 270 days following the conclusion of each fiscal year of the Lessee of each successive year during the Lease Term, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) upon Lessor's request, its annual budget for any prior or current fiscal year or for the following fiscal year when approved but not later than thirty (30) days prior to the end of its current fiscal year. The financial statements described in this subsection (g)(i) shall be accompanied by an unqualified opinion of Lessee's independent auditor. Credit information relating

to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(h) Lessee has an immediate need for the Equipment and expects to make immediate use of the Equipment. Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish during the Lease Term.

(i) The payment of the Rental Payments or any portion thereof is not directly or indirectly (x) secured by any interest in property used or to be used in any activity carried on by any person other than a state or local governmental unit or payments in respect of such property; or (y) on a present value basis, derived from payments (whether or not to Lessee) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit. Lessee shall not permit the Federal government to guarantee any Rental Payments. The Equipment will not be used, directly or indirectly, in any activity carried on by any person other than a state or local governmental unit. No portion of the Acquisition Amount will be used, directly or indirectly, to make or finance loans to any person other than Lessee. Lessee has not entered into any management or other service contract with respect to the use and operation of the Equipment.

(j) There is no pending litigation, tax claim, proceeding or dispute that may adversely affect Lessee's financial condition or impairs its ability to perform its obligations under this Agreement or the Escrow Agreement. Lessee will, at its expense, maintain its legal existence in good standing and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor's first priority security interest in the Equipment and the Escrow Account and Lessor's rights and benefits under this Agreement and the Escrow Agreement.

(k) Lessee is the fee owner of the real estate where the Equipment is and will be located and has good and marketable title thereto, and there exists no mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to such real estate which is anticipated to interfere with the Lessee's use of the Equipment as intended.

(l) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal year. No event has occurred which would constitute an Event of Default under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years.

(m) In connection with the Lessee's compliance with any continuing disclosure undertakings (each, a "Continuing Disclosure Agreement") entered into by the Lessee pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule"), the Lessee may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system, or its successor ("EMMA"), notice of its incurrence of its obligations under this Agreement, the Escrow Agreement and any related documents and notice of any accommodation, waiver, amendment, modification of terms or other similar events reflecting financial difficulties in connection with this Agreement, the Escrow Agreement and related documents, in each case including posting a full copy thereof or a description of the

material terms thereof (each such posting, an “EMMA Posting”). Except to the extent required by applicable law, including the Rule, the Lessee shall not file or submit or permit the filing or submission of any EMMA Posting that includes the following unredacted confidential information about the Lessor or its affiliates and the Escrow Agent in any portion of such EMMA Posting: address and account information of the Lessor or its affiliates and the Escrow Agent; e-mail addresses, telephone numbers, fax numbers, names and signatures of officers, employees and signatories of the Lessor or its affiliates and the Escrow Agent; and the form of Disbursement Request that is attached to the Escrow Agreement.

(n) The Lessee acknowledges and agrees that the Lessor and its affiliates are not responsible for the Lessee’s or any other entity’s (including, but not limited to, any broker-dealer’s) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with the Rule, any Continuing Disclosure Agreement or any applicable securities or other laws, including but not limited to those relating to the Rule.

ARTICLE III

Section 3.01. Lease of Equipment. Subject to the terms of this Agreement, Lessor agrees to provide the Acquisition Amount to acquire the Equipment. Lessor hereby demises, leases, transfers and lets to Lessee, and Lessee hereby acquires, rents and leases from Lessor, the Equipment. The Lease Term may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for the next succeeding Renewal Term up to the maximum Lease Term as set forth in the Payment Schedule. At the end of the Original Term and at the end of each Renewal Term until the maximum Lease Term has been completed, Lessee shall be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee shall have terminated this Agreement pursuant to Section 3.03 or Section 10.01. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the Payment Schedule.

Section 3.02. Continuation of Lease Term. Lessee intends, subject to Section 3.03, to continue the Lease Term through the Original Term and all Renewal Terms. Lessee affirms that sufficient funds are available for the current fiscal year, and Lessee reasonably believes that an amount sufficient to make all Rental Payments during the entire Lease Term can be obtained from legally available funds of Lessee. Without limiting or impairing in any fashion the non-appropriation provisions of Section 3.03 below, Lessee hereby states its present intention to do all things lawfully within its power to obtain and maintain funds sufficient and available to discharge its obligation to make Rental Payments due hereunder. To that end, the Budget Officer shall include in the initial proposal for each of the Lessee's annual budgets the amount of all Rental Payments coming due during the fiscal year to which such budget applies. Notwithstanding that the Budget Officer includes such an appropriation for Rental Payments in a proposed budget, the Lessee may determine not to include such an appropriation in the Lessee's final budget for such fiscal year, as further provided in Section 3.03 below.

Section 3.03. Non-appropriation. Lessee is obligated only to pay such Rental Payments (and such other obligations under this Agreement unless otherwise permitted by law) as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee’s then current fiscal year. Should Lessee fail to budget, appropriate or otherwise make available funds to

pay Rental Payments following the then current Original Term or Renewal Term, this Agreement shall be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination promptly after any decision to non-appropriate is made, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this Section, Lessee agrees to cease use of the Equipment as soon as practical and peaceably remove and deliver at Lessee's expense the Equipment to Lessor at the location(s) to be specified by Lessor, provided such location is located within a reasonable distance of Lessee and such delivery can be practically made at reasonable cost at such location(s).

Section 3.04. Conditions to Lessor's Performance.

(a) As a prerequisite to the performance by Lessor of any of its obligations under this Agreement, Lessee shall deliver to Lessor the following:

(i) An Escrow Agreement in the form set forth in Exhibit I hereto, satisfactory to Lessor and executed by Lessee and the Escrow Agent;

(ii) A certified copy of a resolution, ordinance, or other official action of Lessee's governing body, substantially in the form attached hereto as Exhibit C-1, authorizing the execution and delivery of this Agreement and the Escrow Agreement and performance by Lessee of its obligations under this Agreement and the Escrow Agreement;

(iii) A Certificate executed by the Secretary or other comparable officer of Lessee, in substantially the form attached hereto as Exhibit C-2, completed to the satisfaction of Lessor;

(iv) An opinion of counsel to Lessee in substantially the form attached hereto as Exhibit D and otherwise satisfactory to Lessor;

(v) Evidence of insurance as required by Section 7.02 hereof;

(vi) All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time pursuant to Section 6.02;

(vii) A waiver or waivers of interest in the Equipment, satisfactory to Lessor, from any mortgagee or any other party having an interest in the real estate on which the Equipment will be located and/or landlord of the real estate on which the Equipment will be located;

(viii) A copy of a fully completed and executed Form 8038-G;

(ix) A certified copy of any Surety Bond satisfying the conditions set forth in Section 7.04, or, at Lessor's sole discretion, such Surety Bonds may be provided after the Commencement Date, provided however, that no "Disbursement Request" pursuant to the Escrow Agreement shall be authorized by Lessor until such Surety Bonds satisfying the conditions set forth in Section 7.04 have been delivered to Lessor; and

(x) Such other items reasonably required by Lessor.

(b) In addition to satisfaction of the conditions set forth in subsection (a) of this Section 3.04, the performance by Lessor of any of its obligations under this Agreement and the Escrow Agreement shall be subject to: (i) no Material Adverse Change having occurred since the date of this Agreement, (ii) no Event of Default having occurred and then be continuing, and (iii) no Event of Non-appropriation having occurred or being threatened with respect to this Agreement.

(c) Subject to satisfaction of the foregoing, Lessor will deposit the Acquisition Amount with the Escrow Agent.

ARTICLE IV

Section 4.01. Rental Payments. Subject to Section 3.03, Lessee shall promptly pay Rental Payments, in lawful money of the United States of America, to Lessor on the dates and in such amounts as provided in the Payment Schedule. Interest on the Acquisition Amount shall begin to accrue as of the Commencement Date.

Section 4.02. Interest and Principal Components. A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal as more fully detailed on the Payment Schedule.

Section 4.03. Rental Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments shall constitute a current expense of Lessee payable solely from its general fund or other funds that are legally available for that purpose and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of Lessee.

Section 4.04. Rental Payments to be Unconditional. Except as provided in Section 3.03, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances, or failure of any Vendor to deliver any Equipment or otherwise perform any of its obligations.

Section 4.05. Tax Covenants.

(a) Lessee agrees that it will not take any action that would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for federal income tax purposes, nor will it omit to take or cause to be taken, in a timely manner, any action, which omission would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for federal income tax purposes.

(b) In the event that Lessee does not spend sufficient moneys in the Escrow Account within six (6) months after the date the deposit is made pursuant to Section 3.04(c), Lessee will, if required by Section 148(f) of the Code to pay rebate: (i) establish a Rebate Account and deposit the Rebate Amount (as defined in Section 1.148-3(b) of the U.S. Treasury Regulations) not less frequently than once per year after the Commencement Date; and (ii) rebate to the United States, not less frequently than once every five (5) years after the Commencement Date, an amount equal to at least 90% of the Rebate Amount and within 60 days after payment of all Rental Payments or the Prepayment Price as provided in Section 10.01(a) hereof, 100% of the Rebate Amount, as required by the Code and any regulations promulgated thereunder. Lessee shall determine the Rebate Amount, if any, at least every year and upon payment of all Rental Payments or the Prepayment Price and shall maintain such determination, together with any supporting documentation required to calculate the Rebate Amount, until six (6) years after the date of the final payment of the Rental Payments or the Prepayment Price.

Section 4.06. Event of Taxability. Upon the occurrence of an Event of Taxability, the interest component of Rental Payments and any charge on Rental Payments or other amounts payable based on the Contract Rate shall have accrued and be payable at the Taxable Rate retroactive to the date as of which the interest component is determined by the Internal Revenue Service to be includible in the gross income of the owner or owners thereof for federal income tax purposes, and Lessee will pay such additional amount as will result in the owner receiving the interest component at the Taxable Rate.

Section 4.07. Mandatory Prepayment. Any funds not applied to Equipment Costs and remaining in the Escrow Account on the earlier of (a) the expiration of the Acquisition Period and (b) the date on which Lessee executes an Acceptance Certificate (in the form attached hereto as Exhibit E), shall be applied by Lessor on any Rental Payment Date to all or a portion of the Rental Payment due and owing in the succeeding twelve (12) months and any remaining amounts shall be applied by Lessor as prepayment to the remaining principal balance owing hereunder in the inverse order of Rental Payment Dates.

ARTICLE V

Section 5.01. Delivery, Installation and Acceptance of Equipment.

(a) Lessee shall order the Equipment (or cause the Equipment to be ordered), cause the Equipment to be delivered and installed at the location specified in the Equipment Schedule and pay any and all delivery and installation costs and other Equipment Costs in connection therewith. When the Equipment has been delivered and installed, Lessee shall promptly accept such Equipment and evidence said acceptance by executing and delivering to Lessor an "Acceptance Certificate" in the form attached hereto as Exhibit E.

(b) Lessee shall deliver to Lessor original invoices (and proof of payment of such invoices) and bills of sale (if title to such Equipment has passed to Lessee) relating to each item of Equipment accepted by Lessee.

Section 5.02. Quiet Enjoyment of Equipment. So long as Lessee is not in default hereunder, neither Lessor nor any entity claiming by, through or under Lessor, shall interfere with Lessee's quiet use and enjoyment of the Equipment during the Lease Term.

Section 5.03. Location; Inspection. Once installed, no item of the Equipment will be moved or relocated from the location specified for it in the Equipment Schedule without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property where the Equipment is located for the purpose of inspecting the Equipment.

Section 5.04. Use and Maintenance of the Equipment. Lessee shall not install, use, operate or maintain the Equipment (or cause the Equipment to be installed, used, operated, or maintained) improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated hereby. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative, or judicial body, including, without limitation, all anti-money laundering laws and regulations; *provided* that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest (including the reversionary interest) of Lessor in and to the Equipment or its interest or rights hereunder.

Lessee agrees that it (a) will maintain, preserve, and keep the Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer; and (b) replace or rebuild any component of the Equipment that becomes permanently unfit for normal use or inoperable during the Lease Term (herein, the "*Inoperable Component*") in order to keep the Equipment as a whole in good repair and working order during the Lease Term. Lessee shall promptly notify Lessor in writing when any component of the Equipment is reasonably expected within forty-five (45) days to become an Inoperable Component. Lessee shall promptly replace or rebuild the Inoperable Component with a similar component of comparable or improved make and model that has at least the equivalent value and utility of the Inoperable Component, a remaining useful life of no less than the remaining Lease Term and such replacement or rebuilt component shall be in good operating condition. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. In all cases, Lessee agrees to pay any costs necessary for the manufacturer to re-certify the Equipment as eligible for manufacturer's maintenance upon the return of the Equipment to Lessor as provided for herein.

Lessee shall not alter (or cause to be altered) any item of Equipment or install (or cause to be installed) any accessory, equipment or device on an item of Equipment if that would impair any applicable warranty, the originally intended function or the value of that Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Equipment, excluding temporary replacements, shall thereupon become subject to the security interest of Lessor.

ARTICLE VI

Section 6.01. Title to the Equipment. During the Lease Term, and so long as Lessee is not in default under Article XII hereof and an Event of Non-appropriation has not occurred, all right, title and interest in and to each item of the Equipment shall be vested in Lessee immediately upon its acceptance of each item of Equipment, subject to the terms and conditions hereof. Lessee shall at all times protect and defend, at its own cost and expense, its title in and to the Equipment from

and against all claims, liens and legal processes of its creditors, and keep all Equipment free and clear of all such claims, liens and processes. Upon the occurrence of an Event of Default or upon termination of this Agreement pursuant to Section 3.03 hereof, full and unencumbered legal title to the Equipment shall, at Lessor's option, pass to Lessor, and Lessee shall have no further interest therein. In addition, upon the occurrence of such an Event of Default or such termination, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of such legal title to Lessor and the termination of Lessee's interest therein, and upon written request by Lessor shall deliver possession of the Equipment to Lessor within a reasonable time prior to which Lessee shall pay a prorated rental amount to Lessor in accordance with Section 3.03 or 12.02 of this Agreement, as applicable. Upon payment of all amounts due and owing hereunder by Lessee in accordance with Section 10.01, Lessor's security interest or other interest in the Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security interest in the Equipment.

Section 6.02. Security Interest. As additional security for the payment and performance of all of Lessee's obligations hereunder, Lessee hereby grants to Lessor a first priority security interest constituting a first lien on (a) the Equipment, (b) moneys and investments held from time to time in the Escrow Account and (c) any and all proceeds of any of the foregoing. Lessee authorizes Lessor to file (and Lessee agrees to execute, if applicable) such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Equipment, the Escrow Account and the proceeds thereof, including, without limitation, such financing statements with respect to personal property and fixtures under Article 9 of the Uniform Commercial Code of the State.

Section 6.03. Personal Property, No Encumbrances. Lessee agrees that the Equipment is deemed to be and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Lessee shall not create, incur, assume or permit to exist any mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on any of the real estate where the Equipment is or will be located not already in existence on the date hereof or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate without the prior written consent of Lessor; provided, that if Lessor or its assigns is furnished with a waiver of interest in the Equipment acceptable to Lessor or its assigns in its discretion from any party taking an interest in any such real estate prior to such interest taking effect, such consent shall not be unreasonably withheld.

ARTICLE VII

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Equipment free of all levies, liens, and encumbrances except those created by this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. Lessee shall pay all utility

and other charges incurred in the use and maintenance of the Equipment. Lessee shall pay such taxes or charges as the same may become due; *provided* that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the Lease Term.

Section 7.02. Insurance. Lessee shall during the Lease Term maintain or cause to be maintained casualty insurance with respect to the Equipment and liability insurance with respect to the Lessee and its operations with the West Virginia Board of Risk and Insurance Management (“BRIM”) covering such risks and in such amounts as shall be determined by BRIM which insurance shall name Lessor and its assigns as loss payee as Lessor’s interests may appear.

Section 7.03. Risk of Loss. Whether or not covered by insurance or self-insurance, Lessee hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the Equipment from any cause whatsoever, and no such loss of or damage to or liability arising from the Equipment shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Agreement. Subject to Section 3.03, whether or not covered by insurance or self-insurance, Lessee hereby agrees to reimburse Lessor (to the extent permitted by applicable law, and then only from legally available and appropriated funds) for any and all liabilities, obligations, losses, costs, claims, taxes or damages suffered or incurred by Lessor as determined and awarded by a court of competent jurisdiction, regardless of the cause thereof and all reasonable expenses incurred in connection therewith (including, without limitation, reasonable counsel fees and expenses, and penalties connected therewith imposed on interest received) arising out of or as a result of (a) entering into this Agreement or any of the transactions contemplated hereby, (b) the ordering, acquisition, ownership, use, operation, condition, purchase, delivery, acceptance, rejection, storage or return of any item of the Equipment, (c) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person, and/or (d) the breach of any covenant of Lessee under or in connection with this Agreement or any material misrepresentation provided by Lessee under or in connection with this Agreement. The provisions of this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

Section 7.04. Surety Bonds; Lessee to Pursue Remedies Against Contractors and Sub-Contractors and Their Sureties. Lessee shall secure from each Vendor directly employed by Lessee in connection with the acquisition, construction, installation, improvement or equipping of the Equipment, a payment and performance bond (“Surety Bond”) executed by a surety company authorized to do business in the State, having a financial strength rating by A.M. Best Company of “A-” or better, and otherwise satisfactory to Lessor and naming Lessor as a co-obligee in a sum equal to the entire amount to become payable under each Vendor Agreement. Each bond shall be conditioned on the completion of the work in accordance with the plans and specifications for the Equipment and upon payment of all claims of subcontractors and suppliers. Lessee shall cause the surety company to add Lessor as a co-obligee on each Surety Bond and shall deliver a certified copy of each Surety Bond to Lessor promptly upon receipt thereof by Lessee. Any proceeds from a Surety Bond shall be applied first to amounts due Lessor under this Agreement, and any remaining amounts shall be payable to Lessee.

In the event of a material default of any Vendor under any Vendor Agreement in connection with the acquisition, construction, maintenance and/or servicing of the Equipment or in the event of a material breach of warranty with respect to any material workmanship or performance guaranty with respect to the Equipment, Lessee will promptly proceed to exhaust its remedies against the Vendor in default. Lessee shall advise Lessor of the steps it intends to take in connection with any such default. Any amounts received by Lessee in respect of damages, refunds and adjustments or otherwise in connection with the foregoing shall be paid to Lessor and applied against Lessee's obligations hereunder.

Section 7.05. Advances. In the event Lessee shall fail to keep the Equipment in good repair and working order or shall fail to maintain any insurance required by Section 7.02 hereof, Lessor may, but shall be under no obligation to, maintain and repair the Equipment or obtain and maintain any such insurance coverages, as the case may be, and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the then current Original Term or Renewal Term and Lessee covenants and agrees to repay such amounts so advanced by Lessor.

ARTICLE VIII

Section 8.01. Damage, Destruction and Condemnation. If, prior to the termination of the Lease Term, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, (i) Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment or such part thereof and any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee or (ii) Lessee shall exercise its option to prepay the obligations hereunder in accordance with Section 10.01(b) hereof.

If Lessee elects to replace any item of the Equipment (the "Replaced Equipment") pursuant to this Section, the replacement equipment (the "Replacement Equipment") shall be new or of a quality, type, utility and condition at least as good as the Replaced Equipment, shall be of equal or greater value than the Replaced Equipment and shall provide at least the same level of energy and/or operational savings expected in the aggregate from the Replaced Equipment prior to such casualty, destruction or condemnation. Lessee shall grant to Lessor a first priority security interest in any such Replacement Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, liens, security interests and encumbrances, excepting only those liens created by or through Lessor, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor's security interest in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "Equipment" for purposes of this Agreement. Lessee shall complete the documentation of Replacement Equipment on or before the next Rental Payment Date after the installation of the Replacement Equipment or be required to exercise its

option to prepay the obligations hereunder with respect to the damaged Equipment in accordance with Section 10.01(b) hereof.

For purposes of this Article, the term “*Net Proceeds*” shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys’ fees, incurred in the collection thereof.

Section 8.02. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pay or cause to be paid to Lessor the amount of the then applicable Prepayment Price, and, upon such payment, the Lease Term shall terminate and Lessor’s security interest in the Equipment shall terminate as provided in Section 6.01 hereof. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after paying such Prepayment Price shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

ARTICLE IX

Section 9.01. Disclaimer of Warranties. For purposes of clarity Lessee acknowledges and agrees that Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Equipment, or any other warranty or representation, express or implied, with respect thereto. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Equipment or the existence, furnishing, functioning or Lessee’s use of any item, product or service provided for in this Agreement.

Section 9.02 Vendor’s Agreements; Warranties. Lessee covenants that it shall not in any material respect amend, modify, rescind or alter any Vendor Agreement without the prior written consent of Lessor, such consent not to be unreasonably delayed, denied, or conditioned. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default under this Agreement, to assert from time-to-time whatever claims and rights (including without limitation warranties) relating to the Equipment that Lessor may have against Vendor. Lessee’s sole remedy for the breach of such warranty, indemnification or representation shall be against the applicable Vendor of the Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor hereunder, including the right to receive full and timely Rental Payments. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to the Equipment.

ARTICLE X

Section 10.01. Prepayment Option. Lessee shall have the option to prepay or satisfy all, but not less than all, of its obligations hereunder, at the following times and upon the following terms:

(a) *Optional Prepayment.* From and after the date specified (if any) in the Payment Schedule (the “*Prepayment Option Commencement Date*”), on the Rental Payment Dates specified in the Payment Schedule, upon not less than thirty (30) days prior written notice, and upon payment in full of the sum of all Rental Payments then due *plus* the then applicable Prepayment Price, which may include a prepayment premium on the unpaid Outstanding Balance as set forth in the Payment Schedule *plus* all other amounts then owing hereunder; or

(b) *Casualty or Condemnation Prepayment.* In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment, on the day specified in Lessee’s notice to Lessor of its exercise of the prepayment option (which shall be the earlier of the next Rental Payment Date or sixty (60) days after the casualty event) upon payment in full to Lessor of (1) in the event such prepayment occurs on a Rental Payment Date, the sum of (i) all Rental Payments then due *plus* (ii) the then applicable Prepayment Price (with no prepayment premium being due) *plus* (iii) all other amounts then owing hereunder OR, (2) in the event such prepayment occurs on a date other than a Rental Payment Date, the sum of (i) the applicable Prepayment Price (with no prepayment premium being due) shown on the Payment Schedule for the Rental Payment Date immediately preceding the applicable date of such prepayment (or if the date of such prepayment occurs prior to the first Rental Payment Date, the earliest Prepayment Price (with no prepayment premium being due) shown on the Payment Schedule) *plus* (ii) accrued interest at the Contract Rate (or the Taxable Rate if then in effect) on the Outstanding Balance as of the Rental Payment Date immediately preceding the applicable date of such prepayment from such Rental Payment Date (or if the date of such prepayment occurs prior to the first Rental Payment Date, the Commencement Date) to the date of such prepayment *plus* (iii) all other amounts then owing hereunder; or

(c) *Payment in Full.* Upon the expiration of the Lease Term, upon payment in full of all Rental Payments then due and all other amounts then owing hereunder to Lessor.

After (i) payment of the applicable Prepayment Price (with no prepayment premium being due) and all other amounts then owing hereunder in accordance with Section 10.01(a) or (b) of this Agreement or (ii) upon the expiration of the Lease Term, payment in full of all Rental Payments then due and all other amounts then owing hereunder in accordance with Section 10.01(c) of this Agreement, Lessor’s security interests in and to the Equipment will be terminated and Lessee will own such Equipment free and clear of Lessor’s security interest in such Equipment.

ARTICLE XI

Section 11.01. Assignment by Lessor.

(a) Lessor’s right, title and interest in and to this Agreement, the Rental Payments and any other amounts payable by Lessee hereunder, the Escrow Agreement, its security interest in

the Equipment and Escrow Account, and all proceeds therefrom may not be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor without obtaining the consent of Lessee and approval of the agreement as to form by the Office of the Attorney General of West Virginia. Any such assignment, transfer or conveyance to a trustee for the benefit of owners of certificates of participation shall be made in a manner that conforms to any applicable State law.

(b) Nothing in this Section 11.01 shall be construed, however, to prevent Lessor from executing any such assignment, transfer or conveyance that does not involve funding through the use of certificates of participation within the meaning of applicable State law, including any such assignment, transfer or conveyance as part of a multiple asset pool to a partnership or trust; *provided* such certificates are sold only on a private placement basis (and not pursuant to any “public offering”) to a purchaser(s) who represents that (i) such purchaser has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment, (ii) such purchaser understands that neither this Agreement nor certificates will be registered under the Securities Act of 1933, (iii) such purchaser is either an “accredited investor” within the meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer within the meaning of Rule 144A, and (iv) it is the intention of such purchaser to acquire such certificates (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933; *provided further*, that in any event, Lessee shall not be required to make Rental Payments, to send notices or to otherwise deal with respect to matters arising under this Agreement with or to more than one individual or entity.

(c) No assignment, transfer or conveyance permitted by this Section 11.01 shall be effective until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests with respect to the Rental Payments payable under this Agreement, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank or trust company as trustee or paying agent. During the Lease Term, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor or the Vendor, *provided*, however, any such assignment shall not transfer all or a majority of Lessor’s or Vendor’s liabilities to such assignee. Assignments in part may include without limitation assignment of all of Lessor’s security interest in and to the Equipment and all rights in, to and under this Agreement related to such Equipment, and all of Lessor’s security interest in and to the Escrow Account, or all rights in, to and under the Escrow Agreement.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee’s right, title, and interest in, to and under this Agreement or any portion of the Equipment or the Escrow Agreement or the Escrow Account may be assigned, encumbered or subleased by Lessee for any reason, and any purported assignment, encumbrance or sublease without Lessor’s prior written consent shall be null and void.

ARTICLE XII

Section 12.01. Events of Default Defined. Any of the following events shall constitute an “Event of Default” under this Agreement:

(a) Failure by Lessee to (i) pay any Rental Payment or other payment required to be paid under this Agreement within 10 days of the date when due as specified herein and an Event of Non-appropriation has not occurred; (ii) maintain insurance as required herein; or (iii) observe and perform any covenant, condition or agreement on its part to be observed or performed under Sections 6.01 or 6.02;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement contained in this Agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; *provided* that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which Lessee is an obligor, if such default (i) arises under any other agreement for borrowing money, lease financing of property or provision of credit provided by Lessor or any affiliate of Lessor, or (ii) arises under any obligation under which there is outstanding, owing or committed an aggregated amount in excess of \$100,000.00;

(e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization, moratorium or insolvency proceeding; or

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) With or without terminating ~~the~~ this Agreement, Lessor may enter the premises where the Equipment is located and retake possession of such Equipment or require Lessee at Lessee's expense to promptly return any or all of such Equipment to the possession of Lessor within a reasonable timeframe at such place within a reasonable distance of Lessee as Lessor shall specify and which shall be practical for delivery at reasonable expense, and sell or lease such Equipment or, for the account of Lessee, sublease such Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee and other amounts hereunder that are payable by Lessee to the end of the then current Original Term or Renewal Term, as the case may be, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies hereunder, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneer's and attorney's fees), subject, however, to the provisions of Section 3.03. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities hereunder or with respect to the Equipment;

(b) Lessor may terminate the Escrow Agreement and apply any proceeds in the Escrow Account to the Rental Payments due hereunder; and

(c) Subject to applicable State law, Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement or the Escrow Agreement or as a secured party in any or all of the Equipment or the Escrow Account.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice other than such notice as may be required in this Article.

ARTICLE XIII

Section 13.01. Notices. All notices, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

Section 13.02. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.03. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.04. Amendments, Changes and Modifications. This Agreement may only be amended by Lessor and Lessee in writing.

Section 13.05. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; *provided*, that only Counterpart No. 1 of this Agreement shall constitute chattel paper for purposes of the applicable Uniform Commercial Code.

Section 13.06. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia. All legal actions for damages brought by Lessor against Lessee shall be brought in the West Virginia Claims Commission. All other causes of action shall be brought in the West Virginia court authorized by statute to exercise jurisdiction over such cause of action.

Section 13.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 13.08. No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated by this Agreement (including in connection with any amendment, waiver or other modification hereof or of any other related document), the Lessee acknowledges and agrees that: (a) (i) the transactions regarding this Agreement provided by the Lessor and any affiliate thereof are arm's-length commercial transactions between the Lessee, on the one hand, and the Lessor and its affiliates, on the other hand, (ii) the Lessee has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Lessee is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement, the Escrow Agreement and any other document related thereto; (b) (i) the Lessor and its affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Lessee, or any other person and (ii) neither the Lessor nor any of its affiliates has any obligation to the Lessee with respect to the transactions contemplated by this Agreement except those obligations expressly set forth herein, in the Escrow Agreement and in any other documents related thereto; and (c) the Lessor and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Lessee, and neither the Lessor nor any of its affiliates has any obligation to disclose any of such interests to the Lessee. To the fullest extent permitted by law, the Lessee, hereby waives and releases any claims that it may have against the Lessor or any of its affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated by this Agreement.

Section 13.09. Entire Agreement. The parties agree that this Agreement constitutes the final and entire agreement between the parties superseding all conflicting terms or provisions of any prior proposals, term sheets, solicitation documents, requests for proposals, award notices, approval letters or any other agreements or understandings between the parties.

Section 13.10. Cancellation of Lease. Pursuant to West Virginia Code § 18B-19-11(d), this Lease shall be cancelable at the option of the Lessee at the end of any fiscal year. In such event, the Lessee shall redeliver possession of the Equipment to Lessor, and upon such redelivery shall be relieved from any further obligations hereunder. Cancellation of the Lease pursuant to this section shall not be deemed an Event of Default.

[Remainder of Page Intentionally Left Blank]

[Signature Page Follows]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Equipment Lease/
Purchase Agreement to be executed in their names by their duly authorized representatives as of
the date first above written.

LESSOR:

Attention: _____

Fax No:

By:

Name:

Title:

(Seal)

Attest:

By: _____

Name: _____

Title: _____

LESSEE:

West Liberty University
208 University Dr
West Liberty, WV 26074
Attention: VP Finance & Administration

Fax No.: (304) ____ - ____

By:

Name: Roberta Linger

Title: VP Finance & Administration

(Seal)

Attest:

By: _____

Name: _____

Title: _____

Counterpart No. _____ of _____ manually executed and serially numbered counterparts.
To the extent that this Agreement constitutes chattel paper (as defined in the Uniform Commercial
Code), no security interest herein may be created through the transfer or possession of any
Counterpart other than Counterpart No. 1.

Signature Page of Equipment Lease-Purchase Agreement

[Exhibit List]

List of Exhibits

Exhibit A	Equipment Schedule
Exhibit B	Payment Schedule
Exhibit C-1	Form of Authorizing Resolution
Exhibit C-2	Form of Incumbency and Authorization Certificate
Exhibit D	Form of Opinion of Counsel
Exhibit E	Form of Acceptance Certificate
Exhibit F	Reserved
Exhibit G	Reserved
Exhibit H	Form of Notice and Acknowledgement of Assignment
Exhibit I	Form of Escrow and Account Control Agreement

-- --

EXHIBIT A
EQUIPMENT SCHEDULE

Location of Equipment:

BUILDING	ADDRESS

Equipment Description (Scope of Work): See the Vendor Agreement, and specifically, without limitation, Exhibit A thereto.

A-1

EXHIBIT B
PAYMENT SCHEDULE

Rental Payment Date	Rental Payment Amount	Interest Portion	Principal Portion	Outstanding Balance	Prepayment Price (including prepayment premium)

B - 1

Contract Rate. The Contract Rate is ____% per annum. The Taxable Rate is ____% per annum.

Prepayment Option Commencement Date. For purposes of Section 10.01 of the Agreement, the Prepayment Option Commencement Date is_____.

B - 2

[Signature Page to Payment Schedule]

LESSOR	LESSEE
<hr/>	West Liberty University
<hr/>	<hr/>
BY: <hr/>	BY: Roberta Linger
ITS: <hr/>	ITS: VP Finance & Administration

[Signature Page to Payment Schedule]

EXHIBIT C-1
FORM OF AUTHORIZING RESOLUTION

RESOLUTION OF THE WEST LIBERTY UNIVERSITY BOARD OF GOVERNORS AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTRACT WITH CMTA TO ACQUIRE, CONSTRUCT, INSTALL AND OTHERWISE IMPLEMENT EQUIPMENT AND OTHER PROPERTY AND CAPITAL IMPROVEMENTS IN AN AMOUNT NOT TO EXCEED \$5,500,000 NECESSARY TO GENERATE CAMPUS-WIDE ENERGY SAVINGS (THE “ENERGY SAVINGS PROJECT”); AUTHORIZING THE PURSUIT OF A LEASE-PURCHASE FINANCING TRANSACTION FOR THE FINANCING OF THE ENERGY SAVINGS PROJECT; APPROVING MCLINEY AND COMPANY TO SOLICIT INVESTORS FOR THE LEASE-PURCHASE FINANCING TRANSACTION; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS REQUIRED IN CONNECTION WITH THE ENERGY SAVINGS PROJECT, THE LEASE-PURCHASE FINANCING TRANSACTION, INCLUDING THE EXECUTION OF ONE OR MORE PURCHASE ORDERS TO ACQUIRE CERTAIN EQUIPMENT IN CONNECTION WITH THE ENERGY SAVINGS PROJECT AND AUTHORIZING ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, the West Liberty University Board of Governors (the “Board”) is the governing body of West Liberty University in West Liberty, West Virginia (the “University”);

WHEREAS, the Board has determined the need to implement certain energy conservation measures pursuant to Chapter 5A, Article 3B of the Code of West Virginia of 1931, as amended (the “Energy Savings Act”) on a campus-wide basis pursuant to a guaranteed energy savings contract with a Qualified Provider (as defined in Section 1(d) of the Energy Savings Act) to perform capital improvements at the University to generate utility cost savings sufficient to offset the cost of such capital improvements (the “Energy Savings Project”);

WHEREAS, the Board proposes to enter into a contract (the “ESCO Contract”) with CMTA Energy Solutions (“CMTA”) for the purpose of carrying out the Project;

WHEREAS, the Board has determined the need to acquire certain equipment and other property (the “Equipment”) which is necessary to complete the Project;

WHEREAS, in order to finance the acquisition of the Equipment which is necessary for the Energy Savings Project, the Board proposes to engage the firm of McLiney and Company (the “Placement Agent”) in order to solicit investors for a Lease-Purchase Agreement (the “Lease Purchase Agreement”) or similar financing arrangement (the “Lease Purchase Financing”);

WHEREAS, prior to entering into the Lease-Purchase Financing, the Board and/or the University propose to enter into one or more purchase orders for the purchase of certain Equipment and to pay the costs of acquiring such Equipment, the cost of which will be reimbursed to the University from the proceeds of the Lease-Purchase Financing at such time that the proceeds of such Lease-Purchase Financing are made available as provided pursuant to the Reimbursement Resolution adopted by the Board on March 31, 2021 (the “Reimbursement Resolution”); and

WHEREAS, the Board deems it for the benefit of the University and the efficient and effective administration thereof to enter into the Lease-Purchase Financing for the purchase, acquisition, financing and leasing of the Equipment which is necessary for the Energy Savings Project.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF GOVERNORS OF WEST LIBERTY UNIVERSITY, AS FOLLOWS:

Section 1. The Board hereby approves the undertaking by the University of the design, acquisition, construction, equipping and installation of the Energy Savings Project for the purpose of achieving the energy conservation measures contemplated by the Energy Savings Act.

Section 2. The Board determines that the terms of the ESCO Contract, substantially in the form presented at the meeting in which this Resolution is considered for adoption, is in the best interests of the University for the delivery of energy savings related capital improvement projects as contemplated by the Energy Savings Act, and the same is hereby approved. The Chair of the Board and/or the President or Vice President for Finance and Administration of the University are hereby authorized to execute and deliver the ESCO Contract with such changes and amendments as may be approved by the individual executing such Contract, such approval to be conclusively established by the execution and delivery of such Contract.

Section 3. The University and its officers are authorized to pursue and consummate the Lease-Purchase Financing in order to finance costs of the Energy Savings Project, including but not limited to the acquisition of the Equipment which is necessary in connection with the Energy Savings Project and such officers are authorized to execute and deliver the Lease-Purchase Agreement and all other documents which are necessary in connection with the Lease-Purchase Financing and the acquisition and installation of the Equipment. The Placement Agent is approved to be engaged by the University to provide placement agent services to the University in connection with Lease-Purchase Financing. The firm of Piper Sandler is hereby approved to be engaged by the University to provide financial advisory services to the University in connection with the Lease-Purchase Financing, if such services are determined to be necessary by the officers of the University. The firm of Steptoe & Johnson PLLC is approved to be engaged by the University to provide bond counsel services to the University in connection with the Lease-Purchase Financing. The Chair of the Board and/or the President and Vice President for Finance and Administration of the University are authorized to negotiate and execute engagement letters with such professionals pursuant to such terms as shall be approved by any of such officers. The offering document for the Lease-Purchase Financing, substantially in the form presented at the meeting in which this Resolution is considered for adoption (the “Offering Circular”) together with

such changes thereto as may be authorized by the Chair of the Board or the President or Vice President for Finance and Administration of the University is approved for use by the Placement Agent in marketing the sale and placement of the Lease-Purchase Financing with investors.

Section 4. The aggregate principal component of rent payments pursuant to the Lease-Purchase Financing shall not exceed \$5,500,000; the maximum term of the Lease-Purchase Financing shall not exceed fifteen (15) years; and the maximum interest rate used to determine the interest component of the rent payments that will come due under the Lease-Purchase Financing shall not exceed three and five tenths percent (3.5%) per annum.

Section 5. The Board approves the execution of Purchase Orders for the purchase of Equipment relating to the Energy Savings Project in an amount not to exceed One Million Five Hundred Thousand Dollars and 00/100 (\$1,500,000) prior to the closing on the Lease-Purchase Financing and the expenditure of University funds from the Education and General Capital Fees Fund, Tuition and Fees Fund, and/or Auxiliary and Auxiliary Capital Fees Fund of the University in an amount not to exceed such sum in order to purchase the Equipment which is described in such Purchase Orders prior to closing on the Lease-Purchase Financing.

Section 6. The Board authorizes the President or Vice President for Finance and Administration of the University or their designee to take all other actions necessary to consummate the transactions contemplated by this Resolution and the Project, including without limitation the submission of all applicable agreements to the Office of the West Virginia Attorney General for approval as to form as may be required and the providing of all required notices to the Joint Committee on Government and Finance and the West Virginia Higher Education Policy Commission.

Section 7. The Board approves the use of the Tax Compliance Policies attached hereto and made a part hereof as Exhibit A by the University in order to facilitate the compliance by the University with all requirements necessary to maintain the excludability from gross income of the interest component of the rental payments to be made by the University pursuant to the Lease-Purchase Agreement and the execution and delivery of such Policies by the appropriate officer of the University.

Section 8. The Board hereby designates the Lease-Purchase Agreement as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended (the “Code”) and covenants that the Lease-Purchase Agreement does not constitute a private activity bond as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Board to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Agreement, have been or shall be issued by the Board, including all subordinate entities of the Board, during the calendar year 2021, all as determined in accordance with the Code.

Section 10. This Resolution shall become effective on the date of its adoption.

Adopted this 31st day of March, 2021.

WEST LIBERTY UNIVERSITY
BOARD OF GOVERNORS

By: _____
Chairperson

CERTIFICATION

The undersigned, being the duly qualified, elected and acting Secretary of the Board of Governors of West Liberty University does hereby certify that the foregoing is a true and accurate copy of a Resolution adopted by the Board of Governors at its meeting of March 31, 2021 and that such Resolution has not been amended and is in full force and effect as of the date hereof.

Dated this ____ day of _____, 2021.

By: _____
SECRETARY

**EXHIBIT A
TAX COMPLIANCE POLICY**

**WEST LIBERTY UNIVERSITY
BOARD OF GOVERNORS**

Purpose

Governmental issuers of tax-exempt and tax-credit bonds must comply with certain federal tax rules pertaining to expenditure of proceeds for qualified costs, rate of expenditure, use of bond financed property, investment of proceeds in compliance with arbitrage rules, and retention of records. The following policies are intended to establish compliance by the West Liberty University Board of Governors (the “*Issuer*”), as the issuer, with these rules in connection with the Issuer entering into that certain Equipment Lease-Purchase Agreement dated as of _____, 2021, by and between _____, as Lessor (the “*Lessor*”) and the Issuer, as Lessee (the “*Lease-Purchase Agreement*”). It is understood and agreed by the Issuer, and the Issuer has covenanted to take all actions necessary to maintain the Lease-Purchase Agreement as tax-exempt state and local obligations.

Tax Requirements Associated with Sale and Issuance of Tax Advantaged Obligations

Review and retention of tax documents related to the Lease-Purchase Agreement will be supervised by the Vice President of Finance and Administration of the Issuer or his or her designee (the “*Oversight Officer*”).

- Form 8038-G (tax exempt bonds) will be reviewed and filed not later than the 15th day of the 2nd calendar month following the quarter in which the Lease-Purchase Agreement is executed. Filing of appropriate version or versions of Form 8038-G will be confirmed with bond counsel.

Expenditure of Proceeds for Governmental Costs

Expenditure of Lease-Purchase Agreement proceeds will be reviewed by the Oversight Officer.

- Lease-Purchase Agreement proceeds will be disbursed pursuant to the Lease-Purchase Agreement and related Escrow Agreement and will be a written order of an Authorized Officer, stating the date, amount, and purpose of the disbursement.
- Requisitions must identify the financed property in conformity with the Tax and Non-Arbitrage Certificate executed by the Issuer at closing, including any certifications as to the character and average economic life of the bond-financed property.
- Requisitions for costs that were paid prior to the execution of the Lease-Purchase Agreement are, in general, limited to costs paid subsequent to, or not more than 60 days prior to, the date a “declaration of intent” to reimburse the costs was adopted by

the Issuer. If proceeds are used for reimbursement, a copy of the declaration will be obtained and included in the records for the Lease-Purchase Agreement, if not already part of the bond transcript.

- Requisitions will be in accordance with expectations to spend or commit 5% of net sale proceeds within 6 months, to spend 85% of net sale proceeds within 3 years, and to proceed with due diligence to complete the project and fully spend the net sale proceeds. Expected expenditure schedules, project timelines, and plans and specifications will be maintained to support expectations. Reasons for failure to meet the expected schedule will be documented and retained in the records for the Lease Purchase Agreement.
- If the 18-month spending exception to rebate applies, expenditure of gross proceeds will be monitored against the following schedule for the arbitrage rebate exception for the issue, if applicable:

15% within 6 months
60% within 12 months
100% within 18 months

- If the 2-year spending exception to rebate applies, expenditure of “available construction proceeds” will be monitored against the following schedule for the arbitrage rebate exception for construction issues if applicable:

10% within 6 months
45% within 12 months
75% within 18 months
100% within 24 months

Expenditure of Proceeds

In addition to the general review of expenditures described above, expenditure of proceeds of the Lease-Purchase Agreement will be reviewed by the Oversight Officer.

- Reserve funds cannot exceed the least of 10% of obligation proceeds, maximum annual debt service, or 125% of average annual debt service. The initial funding of any reserve fund will be measured against this limit.
- Investment earnings on sale proceeds of the Lease-Purchase Agreement will be tracked and will be requisitioned only for appropriate expenditures.

Use of Financed Property

Use of property financed pursuant to the Lease-Purchase Agreement when completed and placed in service will be reviewed by the Oversight Officer.

- Average nonexempt use of property financed pursuant to the Lease-Purchase Agreement over the life of the issue cannot exceed 10% of the proceeds.
- Agreements with business users or non-profit organizations for lease or management or services contracts, sponsored research, naming rights or any other potential nonexempt use of property financed pursuant to the Lease-Purchase Agreement will be reviewed prior to execution of any contract to determine if property subject to the use was financed pursuant to the Lease-Purchase Agreement.
- Agreements with business users or other non-profit organizations for lease or management or services contracts or other private business use involving property financed pursuant to the Lease-Purchase Agreement will be tracked and aggregated with other private business uses for compliance with the 10% limit, as set forth in the Tax Certificate.
- No item of property financed pursuant to the Lease-Purchase Agreement will be sold or transferred to a nonexempt party without advance arrangement of a “remedial action” under the applicable Income Tax Regulations.

Investments and IRS Filings

Investment of proceeds of the Lease-Purchase Agreement in compliance with the arbitrage bond rules and rebate of arbitrage will be supervised by the Oversight Officer.

- Guaranteed investment contracts (“GIC”) will be purchased only using the three-bid “safe harbor” of applicable Income Tax Regulations, in compliance with fee limitations on GIC brokers in the Income Tax Regulations.
- Other investments will be purchased only in market transactions.
- Calculations of rebate liability will be performed annually by outside consultants.
- Rebate payments will be made with Form 8038-T no later than 60 days after (a) each fifth anniversary of the date of issuance and (b) the final retirement of the issue. Compliance with rebate requirements will be reported to Issuer.
- Identify date for first rebate payment at time of issuance. Enter in records for the issue.

Records

Management and retention of records related to tax-exempt bond issues will be supervised by the Oversight Officer.

- Records will be retained for the life of the obligations plus any refunding obligations plus three years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to specific bond issues and compliance functions.
- Retainable records pertaining to the Lease-Purchase Agreement include transcript of documents executed in connection with the issuance of the obligations (including authorizing resolutions, Form 8038-G and Tax Certificate) and any amendments, and copies of rebate calculations and records of payments, including Forms 8038-T.
- Retainable records pertaining to expenditures of Lease-Purchase Agreement proceeds include requisitions, accounting statements and final allocation of proceeds.
- Retainable records pertaining to use of property include all agreements reviewed for nonexempt use and any reviewed documents relating to unrelated business activity.
- Retainable records pertaining to investments include GIC documents under the Income Tax Regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

Amendment

This Tax Compliance Policy may be amended and/or modified by the Issuer as required from time to time to ensure ongoing compliance by the Issuer with requirements related to tax-exempt obligations, such as the Lease Purchase Agreement.

Overall Responsibility

Overall administration and coordination of this policy is the responsibility of the Oversight Officer.

WEST LIBERTY UNIVERSITY
BOARD OF GOVERNORS

By: Roberta Linger, Vice President of
Finance and Administration

Date:

EXHIBIT C-2

FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned Chairman of the Board of Governors of West Liberty University (“*Lessee*”) hereby certifies for and on behalf of the Board as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the “*Officials*”) in the capacity set forth opposite their respective names below and that the original or facsimile signatures are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Equipment Lease-Purchase Agreement dated as of _____, 2021 by and between Lessee and _____ (“*Lessor*”), the Escrow and Account Control Agreement dated as of _____, 2021 among Lessor, Lessee and _____ [same as Lessor], as Escrow Agent, and all documents related thereto and delivered in connection therewith (collectively, the “*Agreements*”), and the Agreements each are the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

<u>Name of Official</u>	<u>Title</u>	<u>Signature</u>
W. Franklin Evans	President	_____
Roberta Linger	VP Finance & Administration	_____

Dated: _____, 2021

By: _____

Name: Richard Lucas

Title: Chairman

(The signer of this Certificate cannot be listed above as authorized to execute the Agreements.)

EXHIBIT D

FORM OF OPINION OF COUNSEL TO LESSEE

(to be typed on letterhead of counsel)

_____, 2021

[Lessor]

Attn: _____

Re: Equipment Lease-Purchase Agreement, dated as of _____, 2021, between
 _____, as Lessor, and West Liberty University Board of Governors,
 as Lessee

Ladies and Gentlemen:

As special project counsel to the Board of Governors of West Liberty University ("*Lessee*"), we have examined (a) an executed counterpart of a certain Equipment Lease-Purchase Agreement, dated as of _____, and Exhibits thereto by and between _____ ("*Lessor*") and Lessee (the "*Agreement*"), which, among other things, provides for the lease of certain property (the "*Equipment*") and a certain Escrow and Account Control Agreement among Lessor, Lessee, and _____ as Escrow Agent, dated as of _____, 2021 (the "*Escrow Agreement*"), (b) an executed counterpart of the resolutions of Lessee with respect to the transaction contemplated by the Agreement, the Escrow Agreement, and documents related thereto and (c) such other opinions, documents and matters of law as we have deemed necessary in connection with the following opinions. The Agreement, the Escrow Agreement and the documents relating thereto are referred to collectively as the "Transaction Documents." All capitalized terms used herein shall have the same meanings as in the Transaction Documents unless otherwise provided herein.

Based on the foregoing, we are of the following opinions:

1. Lessee is an institution of higher education and public body, duly organized and existing under the laws of the State of West Virginia (the "State") within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "Code") and the obligations of Lessee under the Agreement will constitute an obligation of Lessee within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code.

2. Lessee has the requisite power and authority to lease and acquire the Equipment and to execute and deliver the Transaction Documents and to perform its obligations under the Transaction Documents.

3. The Transaction Documents have been duly authorized, approved, executed and delivered by and on behalf of Lessee and the Transaction Documents are legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The authorization, approval, execution and delivery of the Transaction Documents and all other proceedings of Lessee relating to the transactions contemplated thereby have been, to our knowledge, performed in accordance with all open meeting laws, public bidding laws and all other applicable state or federal laws.

5. To our knowledge, there is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Transaction Documents or the security interest of Lessor or its assigns, as the case may be, in the Equipment, the Escrow Account or other collateral thereunder.

6. Under existing laws, regulations, published rulings and judicial decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, the portion of rental payments designated as and constituting interest paid by Lessee and received by Lessor is excludable from Lessor's gross income for federal income tax purposes under Section 103 of the Code and is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals. The opinions set forth in the preceding sentence are subject to the condition that the Lessee complies, on a continuing basis, with all representations, covenants and certifications set forth in the Tax and Non-Arbitrage Certificate and other Transaction Documents. Failure to comply with certain of such representations, covenants and certifications could cause the interest component of the rental payments to be includable in a recipient's gross income retroactive to the date of execution and delivery of the Agreement.

7. The Lessee has designated the Agreement as a "qualified tax-exempt obligation" for purposes of the Code and has covenanted that it does not reasonably expect to issue, together with subordinate entities, more than \$10,000,000 of tax-exempt obligations (other than obligations excluded under Section 265(b)(3)(C)(ii) of the Code) during the calendar year 2021. Therefore, the Agreement is a "qualified tax-exempt obligation" pursuant to the qualified small issuer exception provided under Section 265(b)(3)(B) of the Code.

8. The interest component of the rental payments payable by Lessee pursuant to the Agreement is exempt from all taxation of the State, except inheritance, estate and transfer taxes.

It is to be understood that the rights of the Lessor and its permitted successors and assigns and the enforceability of the Agreement and the remaining Transaction Documents, and the liens, pledges, rights or remedies with respect thereto, are subject to and may be limited by any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws heretofore or hereafter enacted affecting creditors' rights or remedies generally and that their enforcement may also be subject to the application of public policy, general principles of equity and the exercise of judicial discretion in appropriate cases.

We do not express any opinion as to the sufficiency or accuracy of the material, information or financial statements which are set forth in the disclosure document prepared by McLiney and Company and used in connection with the marketing of the Agreement.

The opinions expressed in this letter are based upon the law in effect on the date hereof, and may be affected by actions taken or omitted or events occurring after the date hereof, including subsequent interpretations of the applicable law by competent judicial, regulatory and administrative authorities that modify, revoke, supplement, reverse, overrule or otherwise change applicable law and current interpretations thereof. We assume no obligation to revise or supplement this opinion should such law be changed by legislative action, judicial decision, or otherwise, or to determine or to inform any person whether any such actions are taken or omitted or any such events occur.

Sincerely,

STEPTOE & JOHNSON PLLC

EXHIBIT E

FORM OF ACCEPTANCE CERTIFICATE

[LESSOR]

Attn: _____

Re: Equipment Lease-Purchase Agreement, dated as of _____,
2021, between _____, as Lessor, and the Board of
Governors of West Liberty University, as Lessee

Ladies and Gentlemen:

In accordance with the Equipment Lease-Purchase Agreement (the “Agreement”),
the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. All of the Equipment (as such term is defined in the Agreement) has been delivered,
installed and accepted on the date hereof.

2. Lessee has conducted such inspection and/or testing of the Equipment as it deems
necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.

3. Lessee is currently maintaining the insurance coverage required by Section 7.02 of
the Agreement.

4. Lessee hereby reaffirms that the representations, warranties and covenants
contained in the Agreement are true and correct as of the date hereof.

5. No event or condition that constitutes, or with notice or lapse of time, or both, would
constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.

Date: _____

LESSEE:

Board of Governors of West Liberty University

By: _____

Name: _____

Title: President

EXHIBIT F

RESERVED

EXHIBIT G
RESERVED

EXHIBIT H

FORM OF NOTICE AND ACKNOWLEDGEMENT OF ASSIGNMENT

DATED _____, 2021

[LESSOR] (“Assignor”) hereby gives notice that it has assigned and sold to _____ (“Assignee”) all of Assignor’s right, title and interest in, to and under the Equipment Lease-Purchase Agreement (the “Agreement”) dated as of _____, 2021, between Assignor and the Board of Governors of West Liberty University (“Lessee”), together with all exhibits, schedules, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith, the Rental Payments and other amounts due under the Agreement, all of Assignor’s right, title and interest in the Equipment (as defined in the Agreement), and all of Assignor’s right, title and interest in, to and under the Escrow and Account Control Agreement dated _____, 2021 (the “Escrow Agreement”) by and among Lessee, Assignor and _____, National Association, as Escrow Agent, together with the Escrow Account related thereto (collectively, the “Assigned Property”).

1. Lessee hereby consents to and acknowledges the effect of the assignment of the Assigned Property and absolutely and unconditionally agrees to deliver to Assignee all Rental Payments and other amounts coming due under the Agreement in accordance with the terms thereof on and after the date of this Acknowledgment.

2. Lessee hereby agrees that: (i) Assignee shall have all the rights of Lessor under the Agreement and all related documents, including, but not limited to, the rights to issue or receive all notices and reports, to give all consents or agreements to modifications thereto, to receive title to the equipment in accordance with the terms of the Agreement, to declare a default and to exercise all remedies thereunder; and (ii) except as provided in Section 3.03 of the Agreement, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in the Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense.

3. Lessee agrees that, as of the date of this Notice and Acknowledgment of Assignment (this “Acknowledgement”), the following information about the Agreement is true, accurate and complete:

Number of Rental Payments Remaining	_____
Amount of Each Rental Payment	\$_____
Total Amount of Rents Remaining	\$_____
Frequency of Rental Payments	_____
Next Rental Payment Due	_____
Funds Remaining in Escrow Account	\$_____

4. The Agreement remains in full force and effect, has not been amended and no non-appropriation or Event of Default (or event which with the passage of time or the giving of notice or both would constitute a default) has occurred thereunder.

5. Any inquiries of Lessee related to the Agreement and any requests for disbursements from the Escrow Account, if applicable, and all Rental Payments and other amounts coming due pursuant to the Agreement on and after the date of this Acknowledgment should be remitted to Assignee at the following address (or such other address as provided to Lessee in writing from time to time by Assignee):

6. This assignment has been approved as to form by the Attorney General of the State of West Virginia pursuant to W. Va. Code § 18B-19-11(d).

ACKNOWLEDGED AND AGREED:

LESSEE: BOARD OF GOVERNORS OF WEST LIBERTY UNIVERSITY

By: _____

Name: _____

Title:

ASSIGNOR: [LESSOR]

By: _____

Name: _____

Title: _____

EXHIBIT I
FORM OF ESCROW AND ACCOUNT CONTROL
AGREEMENT

EXHIBIT I

Escrow and Account Control Agreement

This Escrow and Account Control Agreement (this “Agreement”), dated as of _____, 2021, by and among _____, a _____ corporation (together with its successors and assigns, hereinafter referred to as “Lessor”), the Board of Governors of West Liberty University, an institution of higher education and public body existing under the laws of the State of West Virginia (hereinafter referred to as “Lessee”) and _____, a national banking association organized under the laws of the United States of America (“Escrow Agent”).

Reference is made to that certain Equipment Lease-Purchase Agreement dated as of _____, 2021 between Lessor and Lessee (hereinafter referred to as the “Lease”), covering the acquisition and lease of certain Equipment described therein (the “Equipment”). It is a requirement of the Lease that (\$_____) (the “Acquisition Amount”) be deposited into a segregated escrow account under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the purchase of and payment for the Equipment.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Creation of Escrow Account.

(a) There is hereby created an escrow fund to be known as the “Board of Governors of West Liberty University Escrow Account” (the “Escrow Account”) to be held by the Escrow Agent for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof. Escrow Agent shall recognize Lessee as the designated party for regulatory reporting purposes.

(b) Lessee may, from time to time, provide written instructions for Escrow Agent to use any available cash in the Escrow Account to purchase any money market fund or liquid deposit investment vehicle that Escrow Agent from time to time makes available to the parties hereto. Such written instructions shall be provided via delivery to Escrow Agent of a signed and completed Escrow Account Investment Selection Form (such form available from Escrow Agent upon request). All funds invested by Escrow Agent at the direction of Lessee in such short-term investments (as more particularly described in Escrow Agent's Escrow Account Investment Selection Form) shall be deemed to be part of the Escrow Account and subject to all the terms and conditions of this Agreement. If any cash is received for the Escrow Account after the cut-off time for the designated short-term investment vehicle, the Escrow Agent shall hold such cash uninvested until the next Business Day. In the absence of written instructions from Lessee (on Escrow Agent's Escrow Account Investment Selection Form) designating a short-term investment for cash, cash in the Escrow Account shall remain uninvested and it shall not be collateralized. Escrow Agent shall have no obligation to pay interest on cash in respect of any period during which it remains uninvested. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate

notice to the Escrow Agent for the reinvestment of any maturing investment. Accordingly, neither the Escrow Agent nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Escrow Account, and Lessee, to the extent permitted by law, agrees to and does hereby release the Escrow Agent and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Escrow Account shall become part of the Escrow Account, and gains and losses on the investment of the moneys on deposit in the Escrow Account shall be borne by the Lessee. The Escrow Agent shall have no discretion whatsoever with respect to the management, disposition or investment of the Escrow Account. The Escrow Agent shall not be responsible for any market decline in the value of the Escrow Account and has no obligation to notify Lessor and Lessee of any such decline or take any action with respect to the Escrow Account, except upon specific written instructions stated herein. For purposes of this agreement, "Qualified Investments" means (a) direct general obligations of the United States of America; (b) obligations the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (c) money market funds whose investment parameters target investments in securities as described above; or (d) certificates of deposit, time deposits or demand deposits with any bank or savings institution including the Escrow Agent or any affiliate thereof, provided that such is insured by the Federal Deposit Insurance Corporation.

(c) Unless the Escrow Account is earlier terminated in accordance with the provisions of paragraph (d) below, amounts in the Escrow Account shall be disbursed by the Escrow Agent in payment of amounts described in Section 2 hereof upon receipt of written instruction(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Escrow Account are insufficient to pay such amounts, Lessee shall deposit into the Escrow Account any appropriated and available funds needed to complete the acquisition of the Equipment; provided that, for the avoidance of doubt, Lessee is obligated only to make such deposits as at the time may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. Any moneys remaining in the Escrow Account on or after the earlier of (i) the expiration of the Acquisition Period and (ii) the date on which Lessee executes an Acceptance Certificate shall be applied as provided in Section 4 hereof.

(d) The Escrow Account shall be terminated at the earliest of (i) the final distribution of amounts in the Escrow Account, (ii) the date on which Lessee executes an Acceptance Certificate, or (iii) written notice given by Lessor of the occurrence of a default or termination of the Lease due to an Event of Non-appropriation. Notwithstanding the foregoing, this Agreement shall not terminate nor shall the Escrow Account be closed until all funds deposited hereunder have been disbursed.

(e) The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Escrow Agent, and for the disposition of the same in accordance herewith. Notwithstanding and without limiting the generality of the foregoing, concurrent with the execution of this Agreement, Lessee and Lessor, respectively, shall deliver to the Escrow Agent

an authorized signers form in the form of Exhibit A-1 (Lessee) and Exhibit A-2 (Lessor) attached hereto. Notwithstanding the foregoing sentence, the Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent or given by the parties or by a person or persons authorized by the parties. The Escrow Agent specifically allows for receiving direction by written or electronic transmission from an authorized representative with the following caveat, Lessee (to the extent permitted by law and then only from such funds, if any, as are budgeted and appropriated for that purpose during Lessee's then current fiscal year) and Lessor agree to indemnify and hold harmless the Escrow Agent against any and all claims, losses, damages, liabilities, judgments, costs and expenses (including reasonable attorneys' fees) (collectively, "Losses") incurred or sustained by the Escrow Agent as a result of or in connection with the Escrow Agent's reliance upon and compliance with instructions or directions given by written or electronic transmission given by each, respectively, provided, however, that such Losses have not arisen from the gross negligence or willful misconduct of the Escrow Agent, it being understood that forbearance on the part of the Escrow Agent to verify or confirm that the person giving the instructions or directions, is, in fact, an authorized person shall not be deemed to constitute gross negligence or willful misconduct.

In the event conflicting instructions as to the disposition of all or any portion of the Escrow Account are at any time given by Lessor and Lessee, the Escrow Agent shall abide by the instructions or entitlement orders given by Lessor without consent of the Lessee.

(f) Unless the Escrow Agent is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee (to the extent permitted by law and then only from such funds, if any, as are budgeted and appropriated for that purpose during Lessee's then current fiscal year) agrees to and does hereby release and indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith, does (to the extent permitted by law and then only from such funds, if any, as are budgeted and appropriated for that purpose during Lessee's then current fiscal year) indemnify the Escrow Agent against any and all expenses; including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(g) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action including an interpleader action to resolve the disagreement. The Escrow Agent shall be reimbursed by Lessee (to the extent permitted by law and then only from such funds, if any, as are budgeted and appropriated for that purpose during Lessee's then current fiscal year) for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(h) The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(i) Lessee (to the extent permitted by law and then only from such funds, if any, as are budgeted and appropriated for that purpose during Lessee's then current fiscal year) shall reimburse the Escrow Agent for all reasonable costs and expenses, including those of the Escrow Agent's attorneys, agents and employees incurred for non-routine administration of the Escrow Account and the performance of the Escrow Agent's powers and duties hereunder in connection with any Event of Default under the Lease, any termination of the Lease due to an Event of Non-appropriation or in connection with any dispute between Lessor and Lessee concerning the Escrow Account.

(j) The Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation (the "Effective Date"), which shall be a date not less than 60 days after such notice is delivered to an express carrier, charges prepaid, unless an earlier resignation date and the appointment of a successor shall have been approved by the Lessee and Lessor. After the Effective Date, the Escrow Agent shall be under no further obligation except to hold the Escrow Account in accordance with the terms of this Agreement, pending receipt of written instructions from Lessor regarding further disposition of the Escrow Account.

(k) The Escrow Agent shall have no responsibilities, obligations or duties other than those expressly set forth in this Agreement and no implied duties responsibilities or obligations shall be read into this Agreement.

2. Acquisition of Property.

(a) Acquisition Contracts. Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Equipment, with moneys available in the Escrow Account. Lessee represents the estimated costs of the Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Equipment, and the operation and maintenance thereof. Escrow Agent shall have no duty to monitor or enforce Lessee's compliance with the foregoing covenant.

(b) Authorized Escrow Account Disbursements. It is agreed as between Lessee and Lessor that disbursements from the Escrow Account shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the cost of acquiring the Equipment.

(c) Requisition Procedure. No disbursement from the Escrow Account shall be made unless and until Lessor has approved such requisition. Prior to disbursement from the Escrow Account there shall be filed with the Escrow Agent a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due and the manner of disbursement (wire). The Escrow Agent is authorized to obtain and rely on confirmation of such Disbursement Request and payment instructions by telephone call-back to the person or persons designated for

verifying such requests on Exhibit A-2 (such person verifying the request shall be different than the person initiating the request). The Lessor and Lessee hereby confirm that any call-back performed by Escrow Agent to verify a disbursement instruction before release, shall be made to Lessor only and Escrow Agent shall have no obligation to call-back Lessee. Each such Disbursement Request shall be signed by an authorized representative of Lessee (an “Authorized Representative”) and by Lessor, and shall be subject to the following conditions, which Escrow Agent shall conclusively presume have been satisfied at such time as a requisition executed by Lessee and Lessor is delivered to it:

- i. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1 certifying that:
 - a. an obligation in the stated amount has been incurred by Lessee, and that the same is a proper charge against the Escrow Account for costs relating to the Equipment identified in the Lease, and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof);
 - b. the Authorized Representative has no notice of any vendor’s, mechanic’s or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made;
 - c. such requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date of such certificate, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee);
 - d. the Equipment is insured in accordance with the Lease;
 - e. no Event of Default (nor any event which, with notice or lapse of time or both, would become an Event of Default) has occurred and is continuing and no Event of Non-appropriation has occurred or is threatened with respect to the Lease;
 - f. such disbursement shall occur during the Acquisition Period;
 - g. the representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof; and
 - h. no Material Adverse Change (as defined in the Lease) has occurred since the date of the execution and delivery of the Lease;
- ii. Delivery to Lessor of such invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale (if title to such Equipment has passed to Lessee) therefor as required by Section 3.04 of the

Lease and any additional documentation reasonably requested by Lessor;
and

- iii. The disbursement shall occur during the Acquisition Period. Lessee and Lessor agree that their execution of the form attached hereto as Schedule 1 and delivery of the executed form to Escrow Agent confirms that all of the requirements and conditions with respect to disbursements set forth in this Section 2 have been satisfied.

3. Deposit to Escrow Account. Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Acquisition Amount to be deposited in the Escrow Account. Lessee agrees to pay any costs with respect to the Equipment in excess of amounts available therefor in the Escrow Account but only from monies budgeted and appropriated by Lessor from a legally available source in accordance with applicable West Virginia law.

4. Excessive Escrow Account. Upon receipt of written instructions from Lessor including a representation that one of the following conditions has been satisfied (upon which representation Escrow Agent shall conclusively rely), any funds remaining in the Escrow Account on or after the earlier of (a) the expiration of the Acquisition Period and (b) the date on which Lessee executes an Acceptance Certificate, or upon a termination of the Escrow Account as otherwise provided herein, shall be distributed by the Escrow Agent to the Lessor in order for the Lessor to apply such funds to amounts owed by Lessee under the Lease in accordance with Section 4.07 of the Lease.

5. Security Interest. The Escrow Agent and Lessee acknowledge and agree that the Escrow Account and all proceeds thereof are being held by Escrow Agent for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Escrow Account, and all proceeds thereof, and all investments made with any amounts in the Escrow Account. If the Escrow Account, or any part thereof, is converted to investments as set forth in this Agreement, such investments shall be made in the name of Escrow Agent and the Escrow Agent hereby agrees to hold such investments as bailee for Lessor so that Lessor is deemed to have possession of such investments for the purpose of perfecting its security interest.

6. Control of Acquisition Account. In order to perfect Lessor's security interest by means of control in (i) the Escrow Account established hereunder, (ii) all securities entitlements, investment property and other financial assets now or hereafter credited to the Escrow Account, (iii) all of Lessee's rights in respect of the Escrow Account, such securities entitlements, investment property and other financial assets, and (iv) all products, proceeds and revenues of and from any of the foregoing personal property (collectively, the "Collateral"), Lessor, Lessee and Escrow Agent further agree as follows:

(a) All terms used in this Section 6 which are defined in the Commercial Code of the State of West Virginia ("Commercial Code") but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

(b) Escrow Agent will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) Provided that account investments shall be held in the name of the Escrow Agent, Escrow Agent hereby represents and warrants (a) that the records of Escrow Agent show that Lessee is the sole owner of the Collateral, (b) that Escrow Agent has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (c) that Escrow Agent is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Escrow Agent is obligated to accept from Lessor under this Agreement and entitlement orders that Escrow Agent, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Escrow Agent will not enter into any agreement by which Escrow Agent agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Escrow Agent shall promptly notify Lessor if any person requests Escrow Agent to enter into any such agreement or otherwise asserts or seeks to assert a lien, encumbrance or adverse claim against any portion or all of the Collateral.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Lessee may effect sales, trades, transfers and exchanges of Collateral within the Escrow Account, but will not, without the prior written consent of Lessor, withdraw any Collateral from the Escrow Account. Escrow Agent acknowledges that Lessor reserves the right, by delivery of written notice to Escrow Agent, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Escrow Account. Further, Escrow Agent hereby agrees to comply with any and all written instructions delivered by Lessor to Escrow Agent (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

(f) Lessee hereby irrevocably authorizes Escrow Agent to comply with all instructions and entitlement orders delivered by Lessor to Escrow Agent.

(g) Escrow Agent will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Escrow Agent will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

(h) Escrow Agent and Lessee hereby agree that any property held in the Escrow Account shall be treated as a financial asset under W. Va. Code 46-8-102 of the Uniform Commercial Code, notwithstanding any contrary provision of any other agreement to which Escrow Agent may be a party.

(i) Escrow Agent is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 8 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Escrow Account statements or reports issued or sent to Lessee with respect to the Escrow Account.

7. Information Required Under USA PATRIOT ACT. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

8. Miscellaneous. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This Agreement may not be amended except in writing signed by all parties hereto. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument, and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below.

9. Notices and other communications hereunder may be delivered or furnished by electronic mail provided that any formal notice be attached to an email message in PDF format and provided further that any notice or other communication sent to an e-mail address shall be deemed received upon and only upon the sender's receipt of affirmative acknowledgement or receipt from the intended recipient. For purposes hereof no acknowledgement of receipt generated on an automated basis shall be deemed sufficient for any purpose hereunder or admissible as evidence of receipt.

If to Lessor:

[Lessor]

Attn: _____

Fax: (---) ____-_____

If to Lessee:

Board of Governors of West Liberty University

West Liberty, WV

Attn: VP Finance & Administration

Fax: (304) ____-_____

With copies to:

Thomas Aman, Esq.
Steptoe & Johnson PLLC
400 White Oaks Blvd.
Bridgeport, WV 26330
Fax: (304) 933-8183

Email: Thomas.Aman@steptoe-johnson.com

If to Escrow Agent: _____

9. Lessee and Lessor understand and agree that they are required to provide the Escrow Agent with a properly completed and signed Tax Certification (as defined below) and that the Escrow Agent may not perform its duties hereunder without having been provided with such Tax Certification. As used herein "Tax Certification" shall mean an IRS form W-9 or W-8 as described above. The Escrow Agent will comply with any U.S. tax withholding or backup withholding and reporting requirements that are required by law. With respect to earnings allocable to a foreign person, the Escrow Agent will withhold U.S. tax as required by law and report such earnings and taxes withheld, if any, for the benefit of such foreign person on IRS Form 1042-S (or any other required form), unless such earnings and withheld taxes are exempt from reporting under Treasury Regulation Section 1.1461-1(c)(2)(ii) or under other applicable law. With respect to earnings allocable to a United States person, the Escrow Agent will report such income, if required, on IRS Form 1099 or any other form required by law. The IRS Forms 1099 and/or 1042-S shall show the Escrow Agent as payor and the West Liberty University Board of Governors as payee.

10. Lessee and Lessor agree that they are not relieved of their respective obligations, if any, to prepare and file information reports under Code Section 6041, and the Treasury regulations thereunder, with respect to amounts of imputed interest income, as determined pursuant to Code Sections 483 or 1272. The Escrow Agent shall not be responsible for determining or reporting such imputed interest.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

12. Any bank or corporation into which the Escrow Agent may be merged or with which it may be consolidated, or any bank or corporation to whom the Escrow Agent may transfer a substantial amount of its escrow business, shall be the successor to the Escrow Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding. Any bank or corporation into which the Lessor may be merged

or with which it may be consolidated, or any bank or corporation to whom the Lessor may transfer a substantial amount of its business, shall be the successor to the Lessor without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

13. This Agreement may be amended, modified, and/or supplemented only by an instrument in writing executed by all parties hereto. No party hereto shall assign its rights hereunder until its assignee has submitted to the Escrow Agent (i) Patriot Act disclosure materials and the Escrow Agent has determined that on the basis of such materials it may accept such assignee as a customer and (ii) assignee has delivered an IRS Form W-8 or W-9, as appropriate, to the Escrow Agent which the Escrow Agent has determined to have been properly signed and completed.

14. Escrow Agent will treat information related to this Agreement as confidential but, unless prohibited by law, Lessee and Lessor authorize the transfer or disclosure of any information relating to the Agreement to and between the subsidiaries, officers, affiliates and other representatives and advisors of Escrow Agent and third parties selected by any of them, wherever situated, for confidential use in the ordinary course of business, and further acknowledge that Escrow Agent and any such subsidiary, officer, affiliate or third party may transfer or disclose any such information as required by any law, court, regulator or legal process.

15. Lessor will treat information related to this Agreement as confidential but, unless prohibited by law, Escrow Agent and Lessee authorize the transfer or disclosure of any information relating to the Agreement to and between the subsidiaries, officers, affiliates, other representatives and advisors of Lessor and debt and equity sources and third parties selected by any of them, and to their prospective assignees wherever situated, for confidential use in the ordinary course of business, and further acknowledge that Lessor and any such subsidiary, officer, affiliate, debt and equity source or third party or prospective assignee may transfer or disclose any such information as required by any law, court, regulator or legal process.

16. Lessee (to the extent permitted by law) will treat the terms of this Agreement as confidential except on a "need to know" basis to persons within or outside Lessee's organization (including affiliates of such party), such as attorneys, accountants, bankers, financial advisors, auditors and other consultants of such party and its affiliates, except as required by any law, court, regulator or legal process and except pursuant to the express prior written consent of the other parties, which consent shall not be unreasonably withheld.

[Remainder of Page Intentionally Left Blank]

[Signature Page Follows]

In Witness Whereof, the parties have executed this Escrow and Account Control Agreement as of the date first above written.

_____ as
Lessor

Board of Governors of West Liberty
University, as Lessee

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: President

as Escrow Agent

By: _____

Name: _____

Title: _____

[Signature Page of Escrow and Account Control Agreement]

SCHEDULE 1

to the Escrow and Account Control Agreement

FORM OF DISBURSEMENT REQUEST

Re: Equipment Lease-Purchase Agreement dated as of _____, 2021 by and between _____, as Lessor and the Board of Governors of West Liberty University, as Lessee (the "Lease") (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease.)

In accordance with the terms of the Escrow and Account Control Agreement, dated as of _____, 2021 (the "Escrow and Account Control Agreement") by and among _____ ("Lessor"), the Board of Governors of West Liberty University ("Lessee") and _____ (the "Escrow Agent"), the undersigned hereby requests the Escrow Agent pay the following persons the following amounts from the Escrow Account created under the Escrow and Account Control Agreement for the following purposes:

Disbursement Amounts:

Payee's Name and Address	Invoice Number	Dollar Amount	Purpose
<Payee's Name> <Payee Address 1> <Payee Address 2> <Payee Address 3> <Payee Bank Name*> <Payee Bank ABA/Routing*> <Payee Bank Account No*> <Payee Account Name*> <*Payee Address and Payee Bank information is required.>	<invoice list OR "see attached" with a spreadsheet>	< invoice	<general description of equipment; ex "police cruiser">
<Payee's Name> <Payee Address 1> <Payee Address 2> <Payee Address 3> <Payee Bank Name*> <Payee Bank ABA/Routing*> <Payee Bank Account No*> <Payee Account Name*> <*Payee Address and Payee Bank information is required.>	<invoice list OR "see attached" with a spreadsheet>	<invoice	<general description of equipment; ex "police cruiser">

Lessee hereby represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(i) (a) Each obligation specified in the table herein titled as “Disbursement Amounts” has been incurred by Lessee in the stated amount, (b) the same is a proper charge against the Escrow Account for costs relating to the Equipment identified in the Lease, and (c) has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof).

(ii) Each item of Equipment relating to an obligation specified in the table herein titled as “Disbursement Amounts” has been delivered, installed and accepted by Lessee. Attached hereto is the original invoice with respect to such obligation.

(iii) The undersigned, as Authorized Representative, has no notice of any vendor’s, mechanic’s or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(iv) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee).

(v) The Equipment is insured in accordance with the Lease.

(vi) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof. No Event of Non-appropriation has occurred or is threatened with respect to the Lease.

(vii) The disbursement shall occur during the Acquisition Period.

(viii) The representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.

(ix) No Material Adverse Change (as defined in the Lease) has occurred since the date of the execution and delivery of the Lease.

Dated: _____

THE BOARD OF GOVERNORS OF
WEST LIBERTY UNIVERSITY

By: _____

Name: _____

Title: _____

Disbursement of funds from the Escrow Account in accordance with the foregoing Disbursement Request hereby is authorized.

_____ as Lessor under the Lease

By: _____

Name: _____

Title: _____

[Signature Page to Disbursement Request]

[AN "EXHIBIT A-1" MUST BE COMPLETED AND EXECUTED AT TIME OF EXECUTION OF THE AGREEMENT]

EXHIBIT A-1

FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned, Chairman of the Board of Governors of West Liberty University ("*Lessee*") certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the "*Officials*") in the capacity set forth opposite their respective names below and that the facsimile signatures are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Equipment Lease-Purchase Agreement dated as of _____, 2021 by and between Lessee and _____ ("*Lessor*"), the Escrow and Account Control Agreement dated as of _____, 2021, among Lessor, Lessee and _____, as Escrow Agent, and all documents related thereto and delivered in connection therewith (collectively, the "*Agreements*"), and the Agreements each are the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

<u>Name of Official</u>	<u>Title</u>	<u>Signature</u>
W. Franklin Evans	President	_____
Roberta Linger	VP Finance & Administration	_____

Dated: _____, 2021

By: _____

Name: Richard Lucas

Title: Chairman

(The signer of this Certificate cannot be listed above as authorized to execute the Agreements.)

A-1-1

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 West Liberty University

Project Name WLU Energy Performance Project

Project Amount \$ 3,943,183

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 \$3,943,183

: WV Code 5A-3B-1&2 Energy Savings Contracts
and 18B-19-11 Lease Purchase

Prepared by:

Name: Roberta Linger

Title: VP Finance and Administration

E-mail: roberta.linger@westliberty.edu

Telephone No.: 304-336-8990

Fax No.: 304-336-8312

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

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.

The WLU Energy Performance Project consist of a comprehensive HVAC renovation at the Main Hall classroom building and HVAC controls renovations at Campbell Hall, Athletic Sports & Recreation Building, and College Hall.

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

This project is essential to fulfill WLU's mission by providing healthy, comfortable and well ventilated learning environments for our students to pursue a high quality undergraduate, graduate, and professional education. The alternative to the project is increased maintenance spending on antiquated HVAC equipment.

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?

It was identified for FY21 and for FY22 is ranked as number 2.

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?

Yes, the project was identified as a high priority in the university's approved Campus Masterplan. The cost identified in the campus master plan was estimated at \$2.4 million in 2017.

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

The project will improve the learning environment by increasing thermal comfort and indoor air quality.

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

The project is funded by utility savings and will have no affect on the university'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.

The project will greatly benefit the quality of higher education in the community by providing a high performance and comfortable classroom environment. The project's focus on energy efficient infrastructure will considerably reduce the university's carbon footprint and lead WLU into a more sustainable future.

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

The project has received very positive responses and support when discussed at the university's board of governors meetings.

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

The existing old and failing boiler plant in Main hall also serves the heating for the library on campus. The new boiler plant will maximize efficiency and reliability by separating the system into two independent condensing boiler plants with redundancy. The project also emphasizes maintenance friendly solutions to maximize the serviceability and life expectancy of the infrastructure.

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.

The project is 100% funded from guaranteed energy savings. It is a budget neutral project that uses utility savings to pay for all annual capital lease and HEPC revolving loan fund payments. If any shortfall in utility savings occurs, the qualified provider will reimburse the university for any deficit, while any surplus utility savings are kept in full by the university. Anticipated closing date is May 10, 2021.

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

 Yes X No

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

The university will remain compliant with federal Title IX requirements. West Liberty University is committed to ensuring equal access to education in an environment free from discrimination on the basis of sex or gender.

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 X 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 X 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 X 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.

Existing Property, No Property acquisition was required.

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.

Confirmed with CMTA

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 performed prior to purchase.

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

Existing Property, No Property acquisition was required.

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.

Existing Property, No Property acquisition was required.

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

☒ Yes ☐ No. **CMTA**

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)*

There will be no need for capitalized interest. Construction will begin May 10, 2021 with a substantial completion date of August 15, 2021 and a final completion date of December 31, 2021.

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	\$ 216,523
Land Acquisition	0
Sitework/Utilities	0
Construction	\$3,047,520
Equipment/Furnishings	\$444,486
Other Costs	\$139,590
Contingencies	\$95,064
Subtotal	\$3,943,183
Costs of Issuance (2% of Subtotal above)	\$76,817
Capitalized Interest (Estimate)	0
Debt Service Reserve Fund	0
Original Issue Discount	0
Management Fee	0
Other (specify)	0
Subtotal	\$76,817
Less Planned Equity Contribution by Institution	

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

Using the ASHRAE equipment life expectancy standard, the project has a useful life of 20+ years with the exception of electronic controls with a life expectancy of 15 years.

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.

The University does not anticipate the need to use reserve funds.

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

The \$4,020,000 project costs identified in the itemized capital costs table includes all costs related to the project. The sources of funding include a \$1,000,000 HEPC Loan and a \$3,020,000 Capital Lease.

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.

The project adds an additional annual operating expense for measurement and verification (M&V) from the qualified provider starting at \$9,000 annually in 2023 and increasing by 3% annually until 2036. The annual cost is paid for with utility savings and can be canceled at anytime at the discretion of the university.

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 20	FY 19	FY 18	FY 17	FY 16
Undergraduate	2483	2177	2224	2178	2116
Graduate & 1st Prof.	355	312	302	270	201
Total	2838	2489	2526	2448	2317
On-Campus	1032	1153	1108	1051	1019
Off-Campus	1806	1336	1418	1397	1298
Admissions					
Applications Received	1880	1823	1873	1912	1802
Applications Accepted	1234	1309	1284	1335	1286
Students Enrolled	416	465	470	495	436
Acceptance Rate	66%	72%	69%	70%	71%
Matriculation Rate	34%	36%	37%	37%	34%

44. What is the estimated enrollment change resulting from this project?
No change.
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 ²¹	Budgeted FY 20 ²¹	Actual FY 20 ²⁰	Actual FY 20 ²⁰
Ratios (Excluding OPEB liability):				
Primary Reserve Ratio	0.39	0.39	0.39	0.46
Net Operating Revenue Ratio	-0.25	-0.25	-0.25	-0.31
Return on Net Assets	-0.2	-0.2	-0.2	-0.07
Viability Ratio	0.3	0.3	0.3	0.33
 Composite Financial Index	 0.24	 0.24	 0.24	 0.4

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.
The university considered several financing options including funding provided by the qualified provider, a new bond issuance, and HEPC Energy and Water Savings revolving loan fund.
47. Who is the Lessor (full name and address)? Who is the Lessee (full name and address)?
Lessee: Board of Governors of West Liberty University; 208 University Dr, West Liberty, WV 26074
Lessor: The lessor will be selected once the financing is competitively bid.
48. Who will manage the facility during and after construction?
West Liberty University 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?
The Board of Governors of West Liberty University will be financing the project. The Lease-Purchase Agreement is anticipated to be a "qualified tax-exempt obligation" for purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986.
50. If debt is issued, what portion will not be tax-exempt?
Not applicable.

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)

Yes

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

Yes, Appalachian Power company had both a custom and standard rebate program for commercial customers that closed in 2019.

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

No

**West Virginia Higher Education Policy Commission
Meeting of April 30, 2021**

ITEM: Approval of Extension of the West Virginia
Higher Education Grant Application Deadline

INSTITUTIONS: All

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia Higher
Education Policy Commission approves the
extension of the West Virginia Higher Education
Grant application deadline to July 1, 2021.

STAFF MEMBER: Brian Weingart

BACKGROUND:

Staff recommends extending the application deadline for the West Virginia Higher Education Grant to July 1, 2021. Students applying for a Fall 2021 award would have until July 1, 2021 to complete the Free Application for Federal Student Aid (FAFSA).

It has been challenging to get high school seniors in a post-pandemic mindset and without in-person outreach, it has been difficult to provide students with the information and help they need to navigate the financial aid process and complete the FAFSA. The July 1 deadline coincides with the PROMISE Scholarship deadline for 2021.

**West Virginia Higher Education Policy Commission
Meeting of April 30, 2021**

ITEM:	Degree Pursuant Coursework Appeal for Financial Aid Eligibility
INSTITUTIONS:	All
RECOMMENDED RESOLUTION:	Information Item
STAFF MEMBER:	Brian Weingart

Background

The U.S. Department of Education came out with guidance that the Higher Education Act of 1965 requires federal financial aid to only pay for “degree pursuant courses” -- those required for a student’s degree program. This has a negative impact on some students due to the number of college credits they earned while in high school. In some cases, as early as sophomore year of college, students do not have enough courses they can take toward their degree program to be considered full-time. Several state financial aid programs require students to be enrolled full-time. Under current policy, a student could be part-time and defer or forgo their state financial aid; or, enroll in courses that are not required for their degree program, and therefore do not qualify for federal financial aid, in order to be full-time for state financial aid purposes.

State Aid Appeal

The Higher Education Student Financial Aid Advisory Board has recommended a policy through the current appeals process within the legislative rules. When a student cannot meet full-time enrollment status within a term due to unavailability of required courses, that student would submit an appeal to the Commission. The Commission would approve these appeals to allow students to utilize a semester of eligibility of state financial aid in these instances. The Promise Scholarship, West Virginia Higher Education Grant, Underwood-Smith Teaching Scholars program, and the Engineering Science & Technology Scholarship require students to be enrolled full-time. Each program within their respective legislative rule allows for appeals when students cannot meet eligibility requirements.

Appeal Policy

The intention of this policy is to ensure state aid recipients are not forced to take or pay for courses not required for their degree/program when they have been able to accelerate through their program of study.

Below are the recommendations in cases of a degree pursuant coursework appeal. The student must file the appeal with the institution. It is recommended the student file the appeal prior to the beginning of the term. The institution must verify there are no degree pursuant courses available to be full-time within the term, such as, all other degree pursuant courses are only offered during day/time(s) during which the student is already taking courses, or a course is full, and the student is unable to enroll. This exception only applies to situations where it is out of the student's control to be able to enroll in enough degree pursuant courses to be full-time. It does not include personal reasons restricting the student's ability to enroll in enough degree pursuant courses to be full-time. Appeals will not be approved if the student is choosing to be part-time. If approved by the institution, the appeal will progress to the West Virginia Higher Education Policy Commission Division of Financial Aid for review.

An appeal will only be approved for the intended term if no degree pursuant courses are available for the student to reach full-time enrollment. Utilization of state aid during the term an appeal is approved will count as a semester of utilization.

Promise – the student will receive a waiver of the full-time requirement and of the completed credits required for that term; students awarded a Promise Scholarship shall receive an award equal to the lesser of \$2,375 per term or the actual tuition and mandatory fee charges for resident students at the institution.

Example – if a student receives an approved appeal, waiving the credit hour requirement for fall and is less than full-time, the student could receive Promise for the fall, the award would count as a semester of utilization, and the award amount would be based upon tuition and fees charged for the enrollment status of the student for the term not to exceed \$2,375 per term. If the student was full-time in the spring, the student would be expected to complete the credit hour requirement of a one-semester award during the academic year, which is 15 credit hours between fall, spring, and summer.

West Virginia Higher Education Grant - the student will receive a waiver of the full-time requirement and of the completed credits required for that term; the award amount would be prorated based upon the enrollment status of the student for the term based upon the courses required for the degree program; the award amount will be prorated 75 percent for three-quarters time enrollment and 50 percent for half-time enrollment.

Example – if a student receives an approved appeal for fall and is less than full-time, the student could receive the West Virginia Higher Education Grant for the fall, the award will count as a semester of utilization, and the award amount would be prorated based upon the enrollment status of the student for that term and could not exceed financial need for the term when combined with other scholarships and grants. If the student was full-time in the spring, the student would be expected to complete the requirements of a one semester award during the academic year, which is 12 credit hours between fall and spring.

Engineering, Science & Technology - the student will receive a waiver of the full-time requirement; the award amount will be prorated by 75 percent for three-quarters time enrollment and 50 percent for half-time enrollment for that term and cannot exceed cost of attendance when combined with other aid.

Underwood-Smith Teaching Scholars - the student will receive a waiver of the full-time requirement; the award amount will be prorated by 75 percent for three-quarters time enrollment and 50 percent for half-time enrollment for that term and cannot exceed cost of attendance when combined with other aid.

**West Virginia Higher Education Policy Commission
Meeting of April 30, 2021**

ITEM: Presentation of the College-Going Rate of 2020
West Virginia Public High School Graduates

INSTITUTIONS: All

RECOMMENDED RESOLUTION: Information Item

STAFF MEMBERS: Chris Treadway

BACKGROUND:

The Division of Policy and Planning compiles data on the college-going patterns of recent West Virginia high school graduates in order to calculate the annual college-going rate (CGR). In this presentation, Policy and Planning staff will highlight notable findings from this year's analysis.

Results of the 2020 college-going rate analysis will be available to the public through Explorer – the state's higher education data portal following the Commission meeting on April 30, 2021. The college-going rate dashboard may be accessed using the following link: <http://www.wvhepc.edu/resources/data-and-publication-center/cgr/>

The published college-going rate accounts for only those public high school students who matriculated to a West Virginia public college or university, or any public or private institution or Career and Technical Education Center nationally that reported data to the National Student Clearinghouse. At this time, we are unable to account for students graduating from private high schools, or those who pursued other meaningful educational or career pathways after high school, including participating in certain vocational or apprenticeship programs, and service in the United States Armed Forces.

College-Going Rate Data Highlights:

- Approximately 48.2 percent of 2020 West Virginia public high school graduates enrolled in college in the Summer or Fall terms immediately after high school. This represents a decrease of approximately 2.3 percentage points from the previous year's rate of 50.5 percent.
- Bridgeport High School in Harrison County had the highest college-going rate in the state at 73.9 percent, followed closely by George Washington High School in Kanawha County at 72.1 percent and Hurricane High School in Putnam County at 67.8 percent.

- Meanwhile, the lowest college-going rate in the state was that of Union Educational Complex in Grant County, with only 16.7 percent of 2020 graduates enrolling in college in the Summer or Fall immediately after high school.
- At a county level, Putnam County boasted the highest college-going rate in the state, at 60.2 percent, followed by Pendleton County at 57.1 percent. Morgan County had the lowest rate (32.3%).

Utilization of the P-20 data system to calculate the college-going rate allows the ability to disaggregate data based on certain student demographic and academic indicators such as race or ethnicity, gender, socioeconomic status, and a student's history of enrolling in college-level coursework while in high school. Educators may use these disaggregated data to identify student populations that might benefit from additional support preparing for college or navigating the college-going process.

- Statewide, graduates who enrolled in both advanced placement and dual credit college-level coursework while in high school had a college-going rate of 87.2 percent, while those taking only one mode of college-level coursework had college-going rates ranging from 66.2 to 70.1 percent.
- Meanwhile, graduates taking no college-level courses in high school had a considerably lower college-going rate of only 25.3 percent.
- High school graduates with a higher socioeconomic status (SES) in their senior year attended college at a rate of 58.8 percent, while those identified as low SES in their senior year attended college at a much lower rate (33.8%).

College-Going At a Glance | Geography | Snapshot | Selected Characteristics | Trends Over Time | College-Going for GEAR UP | GEAR UP Trends Over Time | Methodology

College-Going Rate of WV Public High School Graduates at a Glance

Every year, the West Virginia Higher Education Policy Commission's Division of Policy and Planning compiles data on the college-going patterns of recent West Virginia public high school graduates to calculate the annual **college-going rate**. The **college-going rate** uses data from the West Virginia P-20 Statewide Longitudinal Data System and reflects the percentage of recent public high school graduates who enrolled in a college, university, or career technical/vocational school following graduation. This section of [Explorer](#) provides current and historical college-going rate data by county, high school and GEAR UP service region. For additional information on the college-going rate, contact Mrs. Pam Woods at (304) 558-1112 or pamela.woods@wvhepc.edu.

2020 College-Going Rates

HS Graduation Year

2020

Summer / Fall College-Going Rate

12-Month College-Going Rate

48.2%

Spring enrollment data were not available at the time of publication therefore the 12-month public college-going rate will not be available for the current year.

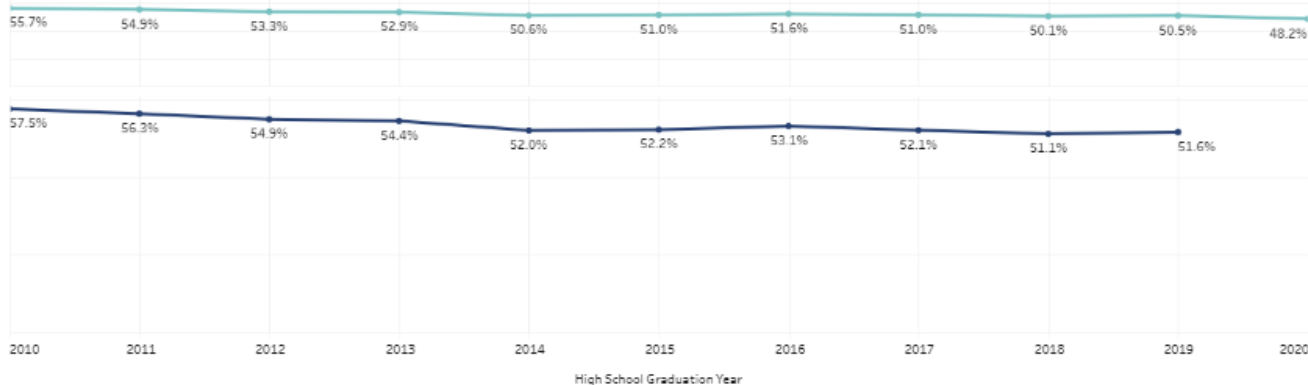
Percentage of recent WV public high school graduates who enrolled in college in the summer or fall semesters immediately after high school graduation

Please note that data in these dashboards are derived from the P-20 Statewide Longitudinal Data System which collects data from WV public high schools, WV public higher education institutions, and WV Workforce. Public college-going rates provided herein may differ slightly from those published previously due to the change in data sources.

Summer/Fall College-Going Rate

12 Month College-Going Rate

Statewide College-Going Rate Trends by High School Graduation Year



**West Virginia Higher Education Policy Commission
Meeting of April 30, 2021**

ITEM: Report on Program Review

INSTITUTIONS: Bluefield State College, Concord University, Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Liberty University, West Virginia State University, West Virginia University, Potomac State College of West Virginia University, and West Virginia University Institute of Technology

RECOMMENDED RESOLUTION: Information Item

STAFF MEMBER: Nikki Bryant

BACKGROUND:

In accordance with W. Va. Code §18B-1B-4 and §18B-2A-4 and Series 10, Procedural Rule, Policy Regarding Program Review, the institutions through their respective governing boards conducted academic program reviews during the 2019-2020 academic year and submitted summary reports that indicated actions taken.

The institutions reviewed a total of 110 programs.

- One hundred four programs were recommended for continuation.
- Four programs were recommended for continuation with corrective action.
- Two programs were recommended for discontinuation.
 - BS Cytotechnology - Marshall University
 - BA Interdisciplinary Studies - West Virginia University

A summary of program enrollments and graduates as well as a few highlights is provided in the information that follows.

2019-2020 Program Review Summary

Bluefield State College:

Program	Average Enrollment	Total Graduates
AS Nursing	89	281

Highlights:

- The program was recommended for continuation.
 - Over the last three years, 100 percent of the graduates of the Nursing program have gained employment.
-

Concord University:

Program	Average Enrollment	Total Graduates
BS Business Administration	455	324
BA English	58	56
BA Advertising and Graphic Design	81	57
BA Studio Art	44	45

Highlights:

- All programs were recommended for continuation. The BA English program was recommended for continuation with corrective action or follow up.
 - In April 2019, the Business Administration degree program earned a 10-year accreditation with the Accreditation Council for Business Schools and Programs (ACBSP).
 - Sixty-eight percent of the 45 alumni of the BA in Advertising and Graphic Design program reportedly hold a job in their related field.
-

Fairmont State University:

Program	Average Enrollment	Total Graduates
AS/BS Civil Engineering Technology	85	100
AS/BS Electrical Engineering Technology	37	38
AS/BS Mechanical Engineering Technology	120	126
BA Studio Art	n/a	31
BS Criminal Justice	292	355
BA English	46	40
BS Nursing	412	264
BS Community Health Education	1,000	27
RBA Regents Bachelor of Arts	85	243

Highlights:

- All programs were recommended for continuation. The Regents Bachelor of Arts (RBA) and BS in Community Health Education programs were recommended for corrective action.
 - The RBA program will undergo revisions to allow for areas of concentration to increase enrollment.
 - The art department majors represent 10.5 percent of the institution's total population.
 - The institution is currently developing a 4+1 track for the completion of the BS to MS in Criminal Justice degree as a way to increase enrollment in these programs.
-

Glenville State College:

Program	Average Enrollment	Total Graduates
AS Business	13	65
AS/BS Criminal Justice	n/a	110
BA English	15	16
BS Health and Human Performance	25	n/a
BS Biology	43.5	25

Highlights:

- All programs were recommended for continuation.
 - An articulation agreement was developed with Pierpont Community and Technical College's two-year criminal justice program, creating a pathway for students graduating with an ASCJ at Pierpont to seamlessly step into the BS Criminal Justice program at Glenville State College.
 - The AS in Business program is part of the Second Chance Pell Pilot program in Huttonsville Correctional Center along with the Federal Correctional Institution, Gilmer.
 - Since 2014, graduates of the BS in Biology have nearly a 100 percent admission rate into professional and graduate programs.
-

Marshall University:

Program	Average Enrollment	Total Graduates
AS Nursing	231	475
BS Nursing	680	568
AAS Medical Laboratory Technology	30	43
BS Medical Lab Sciences	58	65
BS Cytotechnology	4	4
BS Medical Imaging	68	106
BS Communication Disorders	144	166

Program	Average Enrollment	Total Graduates
BS Dietetics	67	82
BS Respiratory Care	52	55
BS Social Work	131	141
BS Engineering	206	126
*BS Mechanical Engineering	98	28
*BS Electrical/Computer Engineering	44	7
MS Nursing	116	193
MS Communication Disorders	107	124
MS Dietetics	15	61
*MS Clinical and Transitional Science	14	7
MS Biomedical Research	32	39
*MS Public Health	17	20
*MS Social Work	85	122
MS Science and Engineering	47	147
*MS Mechanical Engineering	4	33
MD Medicine	301	330
PhD Biomedical Research	25	16

**New programs. Enrollment and Total Graduate numbers are based on less than five years.*

Highlights:

- All programs were recommended for continuation with the exception of the BS in Cytotechnology. This program has fulfilled a teach-out with the last student graduating in June 2020.
- The AS in Medical Laboratory Technology recently received a full 10-year accreditation through 2028 by the National Accrediting Agency for Clinical Laboratory Sciences (NAACLS).
- The BS Medical Laboratory Science program has had a 100 percent job placement of all graduates.
- The BS in Respiratory Care was awarded a 20-year accreditation as a result of a self-study and site visit in early 2019 by the Commission on Accreditation for Respiratory Care.
- Faculty of the BS in Social Work program have been extremely successful in obtaining grant funding for various projects and recently received a \$350,000 grant from the Substance Abuse and Mental Health Services Administration (SAMSA) to create successful suicide prevention programs on campus.
- The MS in Nursing program received the maximum eight-year accreditation following its review.
- The employment rate is 100 percent for graduates of the MS in Communication Disorders program.
- The MS in Public Health program received its initial accreditation in April 2020 from the Council on Education for Public Health.

Shepherd University:

Program	Average Enrollment	Total Graduates
BS Computer Information Science	110.6	83
BA/BS Mass Communications	103.5	140
BA Psychology	135.4	122
RBA Regents Bachelor of Arts	166.8	505
MBA Business Administration	75.6	143

Highlights:

- All programs were recommended for continuation.
 - The mathematics program offers three concentrations: (1) BS in traditional mathematics, (2) BS in industrial mathematics and, (3) Mathematics Teaching Field Grades 9-Adult which leads to a BA in education.
 - Institution has developed and implemented 2+2 transfer agreements with Montgomery College (MD) for the BS in Computer Information Science as a way to increase enrollment.
-

West Liberty University:

Program	Average Enrollment	Total Graduates
AS/BS Dental Hygiene	151	272
BS Biology	191	129
BA English	46	48
BS Nursing	141	134
BS Speech Pathology and Audiology	51.5	65

Highlights:

- All programs were recommended for continuation.
 - Over the past 5 years, the number of biology faculty has increased from 9 to 15 due to the growth of the program.
 - Revisions to the BS in Nursing curriculum has increased the first-time pass rates on the NCLEX exam to well above the state and national averages.
 - The rate of employment for students who have graduated from the BS in Speech Pathology and Audiology program in the last four years is 93 percent. Additionally, the overall rate of students who graduate from this program and enter a graduate program is 89 percent.
-

West Virginia State University:

Program	Average Enrollment	Total Graduates
BA English	63.2	44

Highlights:

- This program has been recommended for continuation.
- One option for the BA English, Technical Writing, has been nationally recognized by thebestschools.org in the top 15 online writing programs in the country.
- The BA English program serves multiple programs in cognate courses, has the largest number of students served in Early Enrollment, and the faculty hold numerous leadership and administrative responsibilities.

West Virginia University:

Program	Average Enrollment	Total Graduates
BS Biochemistry	193	45*
BA Communication Studies	250	427
BS Dental Hygiene	82	n/a
BA English	226	228*
BSBAD Entrepreneurship and Innovation	15*	16*
BSBAD Global Supply Chain Management	n/a	10*
BA Interdisciplinary Studies: Religious Studies	n/a	n/a
*BSJ Journalism	n/a	n/a
BS Medical Laboratory Science	25	n/a
BA Music	167*	n/a
BM Music	n/a	n/a
BNS Nursing	535	1097
BA Philosophy	32	90
BA/BS Psychology	n/a	955
BSR Recreation, Parks, and Tourism	75	105
DDS Dentistry	48	230
DMA Music	n/a	n/a
DNP Nursing	14	n/a
MA Communication Studies	66	n/a
MA Counseling	27	126*
MA Music Industry	6	14
MA Musicology	3	n/a
MA/PhD English	5.6 / 4.2	n/a
MA Professional Writing and Editing	7	n/a
MD Medicine	112	n/a
MFA Creative Writing	9	n/a
MM Music	n/a	n/a
MS Biomedical Sciences	n/a	n/a
MS Business Data Analytics	25	24*
MS Clinical and Translational Science	3.6	n/a
MS Dental Hygiene	n/a	n/a

Program	Average Enrollment	Total Graduates
MS Dental Specialties	n/a	n/a
MS Forensic and Fraud Examination	22*	52*
MS Integrated Marketing Communications	349*	762
MS/PhD Psychology	70	n/a / 12
MSJ Journalism	10	11
MSN Nursing	140	205*
PhD Biochemistry and Molecular Biology	n/a	7
PhD Cancer Cell Biology	n/a	n/a
PhD Cellular and Integrated Physiology	10	10
PhD Clinical and Translational Science	8	n/a
MS Clinical Rehabilitation and Mental Health Counseling	23	80*
PhD Communication Studies	5	n/a
PhD Counseling Psychology	6	n/a
PhD Music	3	1
PhD Nursing	12	10
PhD Pharmaceutical and Pharmacological Sciences	n/a	n/a
PhD Reproductive Physiology	2	3

**The five-year trend numbers were not reported.*

Highlights:

- There were eight undergraduate programs continued at the current level of activity, 11 programs continued with specific action. (Of the 11 programs, 10 actions were assigned to assessment of student learning, and two programs actions were assigned around enrollment, persistence, and completion.) The BA Interdisciplinary Studies program was recommended for discontinuance.
- There were 27 graduate programs that were continued at the current level of activity, nine programs were continued with specific action. (Of the nine programs, four actions were assigned to assessment of student learning, four actions were assigned around enrollment, persistence, and completion, and one action was assigned around adequate faculty and facilities. There were three graduate programs that were recommended for discontinuance.
- The pass rate for nursing graduates has consistently increased over the last five years, from 83.5 percent to 100 percent for the most recent graduating class.
- The BSBAD Entrepreneurship and Innovation program was implemented in 2016 and has grown to 46 students enrolled and 16 graduates.
- The BSR Recreation, Parks, and Tourism program recently received accreditation by the Committee on Accreditation of the Society of American Foresters (CASAF). Additionally, the five faculty members for this program are productive researchers, exceptional instructors, and committed to service. In the past five year, they have received 32 new external research funds totaling \$2,670,340.00 including grants from such governmental agencies as the NSF, USDA, and EPA. They published 76 peer-refereed articles and eight book chapters, edited one book, prepared 16 technical/research reports, and made 88 conference presentations.

- Since 2014, 82 dental hygiene students have completed over 15,400 service hours serving over 18,000 people in the community. Additionally, during this time period, 117 dental hygiene students provided direct patient care to over 16,600 patients, completing over 45,500 procedures.
- Twenty-eight BA/BS Psychology students authored publications and 268 authored presentations during the reporting period.
- Between January 2015 – May 2017, the BS Biochemistry program received a total of 16 grants, a total of \$6,656,569 in funding.
- Since 2015, PhD English students have published 33 articles in peer-reviewed journals or collections and the both the MA and PhD English graduate students presented 91 times at national conferences.
- Students who graduate the MS Clinical and Translational Science program remain in the research path with over 170 publications and admittance to prestigious residencies, fellowships, and medical schools.

Potomac State College of West Virginia University:

Program	Average Enrollment	Total Graduates
AA Arts and Sciences	353	735

Highlights:

- This program was recommended for continuation.

West Virginia University Institute of Technology:

Program	Average Enrollment	Total Graduates
BS Criminal Justice	n/a	n/a
BA Psychology	42	25*

Highlights:

- Both programs were recommended for continuation. The BS Criminal Justice program was recommended for continuation with specific action to revisit the program's curriculum and devise a strong retention and completion plan.