

\$22,160,000  
STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(COLLEGE FACILITIES) 2003 SERIES A

**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES) 2003 SERIES A**

Closing Date: August 13, 2003

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**Basic Documents**

1. Copy of the General Resolution adopted by the West Virginia Higher Education Policy Commission (the "Commission") on September 9, 1992, as amended by:
  - (a) Fourth Supplemental Resolution, adopted by the Commission on March 17, 2003; and
  - (b) Fifth Supplemental Resolution adopted by the Commission on April 24, 2003; and
  - (c) Sixth Supplemental Resolution adopted by the Commission on June 5, 2003
2. Tax Compliance Certificate
3. IRS Form 8038-G
4. Specimen Bond
5. Escrow Agreement
6. Certificate of Determination

**Authorizing Documents**

7. Certified copy by the West Virginia Secretary of State (the "Secretary of State"), as to Chapter 18B, Article 1B of the Code of West Virginia, 1931, as amended.
8. Certified copy by the Secretary of State as to Chapter 18, Article 12B of the Code of West Virginia, 1931, as amended
9. Certified copy by the Secretary of State as to Chapter 13, Article 2G of the Code of West Virginia, 1931, as amended

10. Certificate of the Secretary of State as to members of the West Virginia Higher Education Policy Commission (the "Commission")

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**STATE OF WEST VIRGINIA**

**BOARD OF DIRECTORS OF THE STATE  
COLLEGE SYSTEM**

**STATE COLLEGE SYSTEM REVENUE AND  
REFUNDING BONDS**

**GENERAL RESOLUTION**

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A RESOLUTION AUTHORIZING AND PROVIDING FOR THE ISSUANCE FROM TIME TO TIME BY THE BOARD OF DIRECTORS OF THE STATE COLLEGE SYSTEM OF STATE COLLEGE SYSTEM REVENUE BONDS TO FINANCE ALL OR A PORTION OF THE COSTS OF ACQUISITION, CONSTRUCTION, RENOVATION, IMPROVEMENT AND EQUIPPING OF FACILITIES, BUILDINGS AND STRUCTURES FOR STATE INSTITUTIONS OF HIGHER EDUCATION, CONSISTING OF THOSE COLLEGES AND COMMUNITY COLLEGES UNDER THE SUPERVISION, MANAGEMENT AND CONTROL OF THE BOARD OF DIRECTORS OF THE STATE COLLEGE SYSTEM IN THE STATE OF WEST VIRGINIA; AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF STATE COLLEGE SYSTEM REVENUE REFUNDING BONDS TO REFUND ALL OR A PORTION OF CERTAIN TUITION FEE AND REGISTRATION FEE REVENUE BONDS OF THE WEST VIRGINIA BOARD OF REGENTS; AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE FROM TIME TO TIME OF STATE COLLEGE SYSTEM REVENUE REFUNDING BONDS TO REFUND ALL OR A PORTION OF THE STATE COLLEGE SYSTEM REVENUE OR REVENUE REFUNDING BONDS TO BE ISSUED HEREUNDER BY THE BOARD OF DIRECTORS OF THE STATE COLLEGE SYSTEM AND OTHER BONDS HERETOFORE OR HEREAFTER ISSUED TO ACQUIRE, CONSTRUCT, RENOVATE, IMPROVE OR EQUIP FACILITIES, BUILDINGS AND STRUCTURES FOR SUCH STATE INSTITUTIONS OF HIGHER EDUCATION OR TO REFUND SUCH BONDS.

WHEREAS, the Legislature of the State of West Virginia has, pursuant to Chapter 18B, Articles 1, 2 and 3 of the Code of West Virginia, 1931, as amended (the "Governing Board Act"), created two governing boards for State institutions of higher education to succeed to the powers, duties, responsibilities and properties previously vested in the West Virginia Board of Regents, such governing boards being designated the "University of West Virginia

Board of Trustees" and the "Board of Directors of the State College System," respectively;

WHEREAS, pursuant to the Governing Board Act, the University of West Virginia Board of Trustees is to govern the University of West Virginia and the State university system, being the multi-campus, integrated university of the State, consisting of West Virginia University including West Virginia University at Parkersburg, Potomac State College of West Virginia University and the West Virginia University Health Sciences Center; Marshall University including the Marshall University School of Medicine; the University of West Virginia Graduate College; and the West Virginia School of Osteopathic Medicine;

WHEREAS, pursuant to the Governing Board Act, the Board of Directors of the State College System is to govern the State college system, consisting of all state colleges and community colleges in the State, including Bluefield State College, Concord College, Fairmont State College, Glenville State College, Shepherd College, West Liberty State College, West Virginia Institute of Technology, West Virginia State College, Southern West Virginia Community College, West Virginia Northern Community College and any institution of higher education which has been designated as a community college by the Board of Directors of the State College System;

WHEREAS, the West Virginia Board of Regents (the "Board of Regents") has heretofore issued several series of revenue bonds or revenue refunding bonds (hereinafter collectively defined as the "Prior Bonds"), payable from and secured by tuition and registration fees collected from students at State institutions of higher education;

WHEREAS, the Board of Directors of the State College System (the "Board") and the University of West Virginia Board of Trustees (the "State University System Board") have determined that interest cost savings may be realized by the refunding of the Prior Bonds currently outstanding and that such refunding is therefore advantageous, and each have determined to concurrently issue revenue refunding bonds to accomplish such refunding and to allocate the amount of such revenue refunding bonds to be issued by each board in proportion to the tuition and registration fees available to each board for payment of debt service of such bonds;

WHEREAS, the respective boards have further determined to provide for future issues of revenue bonds and revenue refunding bonds pursuant to this General Resolution and pursuant to a similar general resolution to be adopted by the State University System Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE STATE COLLEGE SYSTEM:

#### ARTICLE I

##### STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (the "General Resolution") is adopted pursuant to the Governing Board Act, Chapter 18, Article 12B and Chapter 18B, Article 10 of the Code of West Virginia, 1931, as amended (collectively, together with the Governing Board Act, the "Act"), Chapter 13, Article 2G of the Code of West Virginia, 1931, as amended (the "Refunding Act"), and other applicable provisions of law. This resolution is hereinafter sometimes referred to as the "State College System Revenue Bond General Resolution" and may be so cited.

Section 1.02. Definitions. In addition to the terms defined in the recitals hereto, the following terms shall have the following meanings unless the context shall otherwise clearly require:

"Accountant" means such reputable and experienced independent certified public accountant or firm of independent certified public accountants as may be selected by the Board.

"Accreted Value" means the amounts set forth in and the amounts computed pursuant to the formula set forth in a Related Supplemental Resolution authorizing the issuance of the Capital Appreciation Bonds the Accreted Value of which is being determined.

"Act" means, collectively Chapter 18, Article 12B and Chapter 18B, Articles 1, 2, 3 and 10 of the Code of West Virginia, 1931, as the same have been and may from time to time be amended.

"Additional Bonds" means any Bonds issued, executed, authenticated and delivered pursuant to this General Resolution, other than the Series 1992 Bonds, to finance the Costs of Projects or for any other purpose permitted hereunder and by the Act, and may include Variable Rate Bonds or Capital Appreciation Bonds, provided that, if Variable Rate Bonds, such Additional Bonds shall provide a cap upon

the interest rate for such Additional Bonds and upon the interest rate to be paid to the issuer of any Credit Facility issued in connection with such Additional Bonds.

"Authorized Denominations" means, with respect to the Series 1992 Bonds, \$5,000 and integral multiples thereof, and, with respect to any Additional Bonds or Refunding Bonds issued hereunder, such denominations as may be set forth in the Related Supplemental Resolution.

"Authorized Newspaper" means a newspaper or financial journal, printed in the English language and customarily published (except in the case of legal holidays) at least once a day for at least five days in each calendar week, of general circulation in the Borough of Manhattan, State of New York.

"Authorized Officer" means the Chairman or Vice-Chairman of the Board, and, in the case of any act to be performed or duty to be discharged, any other member, officer or employee of the Board then authorized to perform such act or discharge such duty.

"Board" means the Board of Directors of the State College System, a public corporation and a governmental instrumentality of the State, exercising essential governmental functions for a public purpose and created by the Act, and any body, agency, board or instrumentality which may succeed to the functions of the Board.

"Bond" means one of the bonds delivered pursuant to this General Resolution, including the Series 1992 Bonds, any Additional Bonds and any Refunding Bonds issued pursuant to Article II hereof.

"Bond Counsel" means an attorney or firm of attorneys of recognized standing in the field of law relating to municipal, state and public agency financing, selected by the Board.

"Bond Counsel's Opinion" means an opinion signed by Bond Counsel rendered pursuant to the provisions of this General Resolution.

"Bond Fund" means a fund by that name established with the Commission pursuant to Section 7.01 hereof with respect to a Series of Bonds.

"Bond Proceeds Fund" means a fund by that name established with the State Treasury pursuant to Section 7.01 hereof with respect to a Series of Bonds.

"Bond Year" means, with respect to a Series of Bonds, the period established and designated as such by the Related Supplemental Resolution.

"Budget Period" means a 12-month period commencing on July 1 and ending on the following June 30.

"Business Day" means any day other than (i) a Saturday, Sunday or legal holiday, and (ii) a day on which banking institutions located in the City of New York or in any of the cities in which the respective Principal Offices of the Registrar or any Paying Agent or Tender Agent are located, are required or authorized by law or executive order to close.

"Capital Appreciation Bonds" means Bonds that bear interest payable at maturity, upon redemption prior to maturity or prior to maturity at the date set forth in the Related Supplemental Resolution in the amounts determined by reference to the Accreted Value of such Capital Appreciation Bonds in accordance with the provisions of the Related Supplemental Resolution.

"Certificate" means (i) a signed document either attesting to or acknowledging the circumstances, representations or other matters therein stated or set forth or setting forth matters to be determined pursuant to this General Resolution or (ii) the report of an Accountant as to audit or other procedures called for by this General Resolution.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.

"Colleges" means, collectively, the State institutions of higher education under the supervision, management and control of the Board.

"Commission" means the West Virginia Municipal Bond Commission or its successor.

"Computation Date" means the last day of the fifth Bond Year and each succeeding fifth Bond Year applicable to a Series of Bonds, and the date on which the last Bond of such Series of Bonds is discharged.

"Costs of Issuance" means all items of fees and expenses, directly or indirectly payable or reimbursable by or to the Board and related to the authorization, sale and issuance of Bonds, including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and

charges of the Commission, any Paying Agent, Tender Agent, Remarketing Agent or Registrar, legal fees, expenses and charges, fees, expenses and disbursements of consultants and professionals, costs of credit ratings, fees and charges for preparation, execution, transportation and safekeeping of Bonds, costs and expenses of refunding, premiums, fees and expenses of any Credit Provider providing a Credit Facility with respect to any Bonds, financing charges, accrued interest with respect to the initial investment of proceeds of Bonds and any other cost, charge or fee in connection with the original issuance of Bonds.

"Costs of Issuance Fund" means a fund by that name established pursuant to Section 7.01 hereof with respect to a Series of Bonds.

"Costs of Projects" means the costs of acquisition, construction, renovation, repair, equipping and safety upgrading of facilities, buildings and structures; the cost of land, equipment, machinery, furnishings, installation of roads, utilities and other similar items convenient in connection with placing the foregoing into operation for Colleges within the State; and costs of financing, interest during construction, professional service fees and all other charges or expenses, necessary, appurtenant or incident to the foregoing, and any other costs permitted to be financed under the Act.

"Credit Facility" means any letter of credit, policy of insurance, guaranty or similar instrument issued by a Credit Provider which secures the payment of the Principal, Purchase Price or Redemption Price of or interest on any Bonds, but shall not include any Reserve Fund Credit Facility.

"Credit Facility Agreement" means any agreement between the Board and a Credit Provider pursuant to the terms of which the Credit Provider delivers a Credit Facility, as amended and supplemented.

"Credit Provider" means any bank, trust company, national banking association, insurance company or other entity which is the issuer of a Credit Facility and, in the case of a Credit Facility for Variable Rate Bonds, which is rated in the highest short term rating category assigned by S&P or Moody's.

"Debt Service" means, with respect to any particular Fiscal Year and any particular Series of Bonds, an amount equal to the sum of (i) all interest payable on such Bonds during such Fiscal Year, plus (ii) any Principal Installments of such Bonds during such Fiscal Year. For purposes of computing "Debt Service," the rate of interest used to determine (i) above shall be a rate per annum equal to (1) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds, and (2) with

respect to any Series of Variable Rate Bonds, the rate which is equal to the average of all the interest rates in effect (or which would have been in effect had such Bonds been Outstanding) during the immediately preceding twelve month period.

"Debt Service/Additional Bonds" means, with respect to any Fiscal Year, an amount equal to the aggregate of (i) all interest payable during such Fiscal Year on all Bonds to be Outstanding as of the date immediately after the delivery of the Additional Bonds to be issued, plus (ii) any Principal Installments payable during such Fiscal Year on all Bonds to be Outstanding as of the date immediately after the delivery of the Additional Bonds to be issued. For purposes of computing "Debt Service/Additional Bonds," the rate of interest used to determine (i) above shall be a rate per annum equal to (1) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds, and (2) with respect to any Series of Variable Rate Bonds, the rate which is equal to the average of all the interest rates in effect (or which would have been in effect had such Bonds been Outstanding) during the immediately preceding twelve (12) month period.

"Debt Service Reserve Fund" means a fund by that name established pursuant to Section 7.01 hereof with respect to a Series of Bonds.

"Debt Service Reserve Requirement" means, as of any date of calculation with respect to any Series of Bonds, the lesser of (i) the amount, if any, specified in the Related Supplemental Resolution, or (ii) an amount not exceeding the amount permitted as a reasonably required reserve under the Code.

~~"Defeasance Obligations"~~ means cash or noncallable Government Obligations.

"Depository" means DTC, or any bank, trust company, national banking association or other financial institution selected by an Authorized Officer as a depository of securities held under the provisions of this General Resolution.

"DTC" means The Depository Trust Company, a limited purpose company organized under the laws of the State of New York, and its successors and assigns.

"DTC Participant" or "DTC Participants" means securities brokers and dealers, banks, trust companies, clearing corporations and certain other corporations which have access to the DTC System.

"Event of Default" means any of the events specified in Section 9.01 hereof.

"FDIC" means the Federal Deposit Insurance Corporation or any successor to the functions of FDIC.

"Fiscal Year" means a twelve-month period commencing on the first day of July of any year, or such other twelve-month period adopted as the Fiscal Year of the Board.

"Fitch" means Fitch Investors Service, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and, if such corporation for any reason no longer performs the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized rating agency designated by an Authorized Officer.

"General Resolution" means this General Resolution.

"Government Agency Obligations" means bonds, notes or other evidence of indebtedness issued or guaranteed by, any agency of the United States of America.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, including but not limited to obligations issued by the Resolution Trust Corporation, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Interest Payment Date" means any date upon which interest on any Bonds is due and payable in accordance with their terms and the Related Supplemental Resolution.

"Interest Rate Swap Obligations" means obligations pursuant to any arrangement whereby directly or indirectly, the Board is entitled to receive from time to time periodic payments calculated by

applying either a floating or a fixed rate of interest on a stated principal amount in exchange for periodic payments made by the Board to another entity calculated by applying a fixed or a floating rate of interest on the same amount, which arrangement does not constitute an obligation to repay money borrowed, credit extended or the equivalent thereof.

"Letter of Credit" means any letter of credit, line of credit, or other instrument which provides (i) security for payment of Bonds of a Series and (ii) for application of payments thereunder prior to use of amounts on deposit in the funds or accounts established hereunder to the payment of the Principal or Purchase Price of, or interest on the Bonds secured thereby.

"Maximum Rate" means, with respect to any particular Variable Rate Bond, the rate of interest set forth in the Related Supplemental Resolution as the maximum rate of interest such Bond may at any time bear.

"Moody's" means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation for any reason no longer performs the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized rating agency designated by an Authorized Officer.

"Original Purchaser" means, with respect to any Series of Bonds, the investment banking firm or firms or other entities first purchasing such Series of Bonds directly from the Board, as shall be determined by a Supplemental Resolution.

"Other Bonds" means any bonds heretofore or hereafter issued by an issuer other than the West Virginia Board of Regents or the Board, the proceeds of which were used to acquire, construct, renovate, improve or equip Colleges.

"Outstanding," when used with reference to Bonds, means, as of any date, all Bonds theretofore delivered or thereupon being delivered under this General Resolution except:

(a) Any Bond cancelled by the Registrar or delivered to the Registrar for cancellation after purchase in the open market or because of payment at or redemption prior to maturity;

(b) Any Bond (or portion of a Bond) deemed to be paid within the meaning of Article VIII hereof; and

(c) Any Bond in lieu of or in substitution for which other Bonds shall have been delivered pursuant to Article III hereof.

"Owner," "Holder," "Bondholder," "Registered Owner" or similar term when used with reference to a Bond, means any person in whose name a Bond is registered on the registration books of the Board maintained by the Registrar.

"Paying Agent" means, with respect to any Series of Bonds, the Commission, or such bank, trust company or national banking association appointed to act as paying agent or co-paying agent for a particular Series of Bonds pursuant to the Related Supplemental Resolution.

"Permitted Investments" means the following:

(a) Government Obligations;

(b) Government Agency Obligations;

(c) any other securities which may be applicable to a Series of Bonds as shall be set forth in the Related Supplemental Resolution and approved by the Credit Provider with respect to such Series of Bonds; and

(d) Any State-administered pool investment fund in which the Board is statutorily permitted or required to invest.

"Principal" or "principal" means, with respect to Bonds, the principal amount of any current interest bearing bonds and the Accreted Value of any Capital Appreciation Bonds.

"Principal installment" means, as of any date of calculation, (i) the aggregate principal amount of Outstanding Bonds due on a certain future date, reduced by the aggregate principal amount of such Bonds which would be retired by reason of the payment

when due and application in accordance with this General Resolution of Sinking Fund Payments payable before such future date, plus (ii) any Sinking Fund Payments due on such certain future date, plus (iii) with respect to any Capital Appreciation Bonds due on such certain future date, the Accreted Value of such Capital Appreciation Bonds.

"Principal Payment Date" means, with respect to any Series of Bonds, any date upon which a Principal Installment is due and payable, other than a date for optional or mandatory redemption of Bonds (other than redemption from Sinking Fund Payments).

"Principal Office" means the office of the Paying Agent, the Registrar or any Tender Agent or Remarketing Agent designated as such in a Supplemental Resolution or in a written notice to the Board.

"Prior Bonds" means, collectively, the following bonds heretofore issued by the West Virginia Board of Regents and currently outstanding:

(a) State System Tuition Fee Revenue Bonds, 1977 Series A, dated August 1, 1977, issued in the original aggregate principal amount of \$51,700,000;

(b) State System Tuition Fee Revenue Bonds, 1986 Series A, dated May 1, 1986, issued in the original aggregate principal amount of \$73,000,000;

(c) Registration Fee Revenue Refunding Bonds, 1989 Series A, dated January 1, 1989, issued in the original aggregate principal amount of \$19,395,000; and

(d) Registration Fee Revenue Bonds, 1989 Series B, dated January 1, 1989, issued in the original aggregate principal amount of \$50,605,000.

"Project" means with respect to any Series of Bonds, the facilities, buildings, structures, renovations, improvements, repairs, equipment and safety upgrading for Colleges within the State as shall be financed by the Board through the issuance of such Series of Bonds.

"Purchase Fund" means with respect to any Variable Rate Bonds, the fund by that name or similar name created pursuant to the Related Supplemental Resolution for the Purchase Price of such Variable Rate Bonds.

"Purchase Price" means an amount equal to the principal amount of any Bond tendered or deemed tendered for purchase as may be provided in any Related Supplemental Resolution, together with accrued and unpaid interest thereon, if any, to the date of purchase.

"Rating Category" means one of the generic rating categories of either Moody's, S&P or Fitch without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

"Record Date" means, with respect to a Series of Bonds, the date or dates set forth as such in the Related Supplemental Resolution.

"Redemption Date" means the date upon which Bonds are to be called for redemption pursuant to this General Resolution.

"Redemption Price" means, with respect to any Bond, the principal amount thereof and accrued interest to the date fixed for redemption, plus the applicable premium, if any, payable upon redemption thereof.

"Refunding Act" means Chapter 13, Article 2G of the Code of West Virginia, 1931, as amended from time to time.

"Refunding Bonds" means any Series or portion of a Series of Additional Bonds delivered upon original issuance in accordance with the conditions set forth in Section 2.05 hereof or thereafter delivered in lieu of or in substitution for any such Bond pursuant to this General Resolution.

"Registrar" means the agent of the Board at the office of which Bonds may be presented for registration, transfer or exchange as provided in Article III hereof, and shall mean such bank, trust company or national banking association appointed to act as Registrar for a particular Series of Bonds pursuant to the Related Supplemental Resolution.

"Related Supplemental Resolution" means with respect to a Series of Bonds, the Supplemental Resolution providing for the issuance of such Bonds.

"Remarketing Agent" means any remarketing agent appointed by the Board to serve in such capacity.

"Reserve Fund Credit Facility" means any bond insurance policy, surety bond, letter of credit or similar instrument deposited in a Debt Service Reserve Fund for any Series of Bonds.

"Revenues" means, collectively (i) all tuition and registration fees collected at Colleges governed by the Board and earnings thereon, except tuition collected at Southern West Virginia Community College and West Virginia Northern Community College, all as described in Chapter 18B, Article 3, Section 4 of the Code of West Virginia, 1931, as amended; (ii) all proceeds of any Bonds deposited with the State Treasury or the Commission and earnings thereon, until expended, and (iii) all other fees, charges, rentals, grants and moneys from any source collected at Colleges governed by the Board and earnings thereon, that may now or hereafter be legally available for payment of Debt Service and that are specifically pledged by resolution of the Board for payment of any Bonds pursuant to a Supplemental Resolution.

"Serial Bonds" means Bonds which are so designated in any Related Supplemental Resolution and which mature in annual or semiannual installments.

"Series" means all of the Bonds delivered on original issuance in a simultaneous transaction and designated as a distinct series, regardless of variations in maturity, interest rate, Sinking Fund Payments or other provisions, and any Bonds thereafter delivered in lieu of or in substitution for (but not to refund) such Bonds as herein provided.

"Series 1992 Bonds" means the Board's State College System Revenue Refunding Bonds, Series 1992.

"Sinking Fund Payment" means, as of any particular date of calculation and with respect to a Series of Bonds, the amount required to be paid by the Board on a certain future date for the retirement of Outstanding Bonds of such Series which mature after said future date, but does not include any amount payable by the Board by reason of the maturity of a Bond or by call for redemption at the option of the Board.

"S&P" means Standard & Poor's Corporation, a corporation organized and existing under the laws of the State of New York, its successors and their assigns, and, if such corporation for any reason no longer performs the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by an Authorized Officer.

"State" means the State of West Virginia.

"State Treasury" means the treasury of the State of West Virginia established pursuant to the Constitution and Laws of the State.

"Supplemental Resolution" means any resolution supplementing or amending this General Resolution, duly adopted by the Board and effective in accordance with Article X hereof.

"Tax Agreement" means the tax agreement, non-arbitrage certificate or similar agreement and/or certificate which may be entered into or delivered by the Board relating to a Series of Bonds.

"Tax-Exempt Bonds" means Bonds of any Series the interest on which, in Bond Counsel's Opinion, is excludable from the gross income of the recipients thereof for federal income tax purposes.

"Tender Agent" means any tender agent appointed by the Board to serve in such capacity.

"Term Bonds" means Bonds subject to mandatory sinking fund redemption as may be set forth and prescribed in any Supplemental Resolution.

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

"Variable Rate Bonds" means, for any period of time, any Bonds which during such period bear interest at a variable rate or rates, including rates which vary daily, weekly, monthly, quarterly, semiannually, annually or in the form of commercial paper; provided that Bonds the interest rate on which has been fixed for the remainder of the term thereof shall no longer be Variable Rate Bonds.

"West Virginia State Legislature" means the legislature of the State of West Virginia as it shall convene from time to time.

Section 1.03. Interpretation. (a) In this General Resolution, unless the context otherwise requires:

(i) The terms "hereby," "hereof," "hereto," "herein," "hereunder," and any similar terms used in this General Resolution refer to this General Resolution, and the term "heretofore" means before, and the term "hereafter" means after, the date of adoption of this General Resolution;

(ii) The words of the masculine gender mean and include correlative words of the feminine

and neuter genders and words importing the singular number mean and include the plural number and vice versa;

(iii) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(iv) Any headings preceding the texts of the several articles and sections of this General Resolution, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this General Resolution, nor shall they affect its meaning, construction or effect;

(v) This General Resolution shall be governed by and construed in accordance with the applicable laws of the State;

(b) Nothing in this General Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person, other than the Board, a Credit Provider and the Owners of the Bonds, any right, remedy or claim under or by reason of this General Resolution or any covenant, condition or stipulation thereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the Board shall be for the sole and exclusive benefit of the Board, the Credit Providers and the Owners of the Bonds.

(c) If any one or more of the covenants or agreements provided herein on the part of the Board to be performed should be contrary to law, then such covenant or agreement shall be deemed separable from the remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this General Resolution or of the Bonds.

Section 1.04. Findings and Determinations. It is hereby found, determined and declared:

(a) The Board is authorized under the Act and the Refunding Act to issue its Bonds for the purposes of (i) refunding all or any portion of the Prior Bonds, (ii) paying Costs of Projects, (iii) refunding all or any portion of Bonds to be issued pursuant to this General Resolution, and (iv) paying Costs of Issuance.

(b) It is in the best interests of and advantageous to the Board to initially issue a Series of Bonds for the purpose of refunding a portion of the Prior Bonds and paying Costs of Issuance thereof, the designation, terms and other details of such Series of Bonds to be set forth in full in a Supplemental Resolution to be adopted by the Board.

(c) Such Series of Bonds shall be issued by the Board concurrently with the issuance of a similar series of refunding bonds by the State University System Board so that, upon the issuance and delivery of all such bonds, and application of other moneys which may be available to the respective boards for such purpose, all Prior Bonds will be refunded and defeased and no longer payable from or secured by the Revenues or any portion thereof.

(d) The Board has complied with all regulations of law relating to issuance of the initial Series of Bonds to be issued hereunder, or will have so complied prior to issuance of any thereof.

(e) The adoption of this General Resolution and the issuance of the initial Series of Bonds to be issued hereunder, subject to the terms thereof, will not result in a breach of, or constitute a default under, any resolution, instrument or agreement to which the Board is a party or by which it may be bound or affected.

Section 1.05. General Resolution Constitutes Contract. In consideration of the purchase and acceptance of any and all of the Bonds issued hereunder by those who shall own or hold the same from time to time, this General Resolution shall be deemed to be and shall constitute a contract between the Board, the Holders of the Bonds and any Credit Providers, and the pledges made in this General Resolution and the covenants and agreements herein set forth to be performed by the Board shall be for the equal benefit, protection and security of the Holders of any and all of the Bonds, all of which, without regard to the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as is expressly provided therein or herein.

ARTICLE II

TERMS OF BONDS

Section 2.01. Authorization of Bonds. In order to provide sufficient funds to pay costs of refunding the Prior Bonds or any portion thereof, Costs of Projects, Costs of Issuance, costs associated with the refunding of Outstanding Bonds or Other Bonds and for any other purpose permitted by the Act, the Refunding Act or other provisions of the Code of West Virginia, 1931, as it may now or hereafter be amended, Bonds of the Board are hereby authorized to be issued hereunder, in one or more Series, pursuant to the Constitution and laws of the State, including, particularly, the Act and the Refunding Act. The Series 1992 Bonds shall be the initial Series of Bonds issued hereunder. Additional Bonds (including Refunding Bonds) may be issued hereunder from time to time in accordance with the provisions hereof. All terms of the Series 1992 Bonds and any Additional Bonds or Refunding Bonds not provided herein shall be as set forth in the Related Supplemental Resolution. This General Resolution constitutes a continuing agreement with the Owners from time to time of the Bonds to secure the full payment of the Principal, Purchase Price and Redemption Price of, and interest on, all such Bonds, subject to the covenants, provisions and conditions herein contained.

Section 2.02. Bonds Limited Obligations. The Bonds issued under this General Resolution are limited obligations of the Board payable solely from the Revenues. No provisions of this General Resolution shall be construed to authorize the Board at any time or in any manner to pledge the credit or taxing power of the State, nor shall any of the obligations or debts created by the Board or issued hereunder be deemed to be obligations of the State.

Section 2.03. Conditions Precedent to Delivery of Bonds. The Bonds of each Series shall be delivered upon the receipt by the Registrar of:

(a) A copy of this General Resolution and the Related Supplemental Resolution authorizing such Series, certified by the Secretary of the Board or an Authorized Officer, by which or pursuant to which the terms of the Series of Bonds are specified;

(b) A Bond Counsel's Opinion to the effect that (i) such Supplemental Resolution has been duly and lawfully adopted and is in

full force and effect; (ii) this General Resolution has been duly and lawfully adopted and is valid and binding upon, and enforceable against, the Board (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); (iii) this General Resolution creates the valid pledge which it purports to create of the Revenues, and moneys and securities on deposit in any of the Funds established hereunder (other than a Purchase Fund, if any) subject to the application thereof to the purposes and on the conditions permitted by this General Resolution; and (iv) upon the execution and delivery thereof, such Bonds will have been duly and validly authorized and issued in accordance with this General Resolution;

(d) A written order as to the authentication, registration and delivery of such Bonds and the application of the proceeds thereof, signed by an Authorized Officer; and

(e) If such Series of Bonds or any portion thereof are Additional Bonds, a Certificate of the Board as set forth in Section 2.04, hereof.

Section 2.04. Additional Bonds. Additional Bonds may be issued pursuant to this General Resolution, provided that all of the requirements of Section 2.03 hereof are met, and in addition that there has first been delivered to the Registrar a Certificate of the Board to the effect that:

(i) all payments into the respective funds and accounts provided for in this General Resolution and any Related Supplemental Resolution respecting Bonds theretofore issued and then Outstanding shall have been made in full to the date of issuance and delivery of such Additional Bonds and no Event of Default hereunder or thereunder shall then be existing; and

(ii) the Revenues of the type set forth in subsection (i) of the definition of "Revenues" in Section 1.02 hereof, collected by the Board for the last Fiscal Year preceding the date of issuance of such Additional Bonds shall have been not less than 120% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); or

(iii) (a) the Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Board for the last Fiscal Year preceding the date of issuance of such Additional Bonds, plus Projected Revenues (as defined below) shall have been not less than 120% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); (b) the Revenues of the type set forth in subsection (i) of the definition of "Revenues" in Section 1.02 hereof collected by the Board for the last Fiscal Year preceding the date of issuance of such Additional Bonds shall have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); and (c) Projected Revenues shall not have been greater than 20% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or which were not pledged under this Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of such Additional Bonds.

Section 2.05. Conditions Precedent to Delivery of Refunding Bonds. In addition to the requirements of Sections 2.03 and 2.04, Refunding Bonds of any Series shall be delivered only upon the receipt by the Registrar of instructions as to the payment or redemption of the bonds or other obligations of the Board or the West Virginia Board of Regents to be refunded, together with instructions as to the giving of notice of redemption, if any, of the Bonds or other obligations to be refunded.

Section 2.06. Interest Rate Swap Obligations and Derivatives. The Board is hereby authorized to enter into Interest Rate Swap Obligations and derivative financial instruments, as deemed necessary or desirable by the Board, provided, however, that prior to entering into any such instrument, the Board shall obtain a Bond Counsel's Opinion to the effect that the Board's entering into such instrument will not materially adversely affect the interests of any Bondholder and will not cause the interest on any Tax-Exempt Bond to not be excludable from gross income of the recipient thereof for federal income tax purposes.

ARTICLE III

GENERAL TERMS AND PROVISIONS OF BONDS

Section 3.01. Medium of Payment, Denominations, Maturities, Form and Date. (a) The Bonds shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Except as may be provided with respect to a Series of Bonds in a Related Supplemental Resolution, interest on Bonds shall be paid by check or draft mailed by the Paying Agent to the Owners of such Bonds as of the applicable Record Date at their last addresses appearing on the registration books of the Board maintained by the Registrar, or at the option of an Owner of not less than \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to the bank account number on file with the Paying Agent on or prior to the applicable Record Date.

(b) All Bonds shall be in Authorized Denominations.

(c) The Principal Payment Dates and Interest Payment Dates on Bonds of any Series shall be established in the Related Supplemental Resolution.

(d) All Bonds shall be issued in fully registered form, without coupons.

(e) To the extent permitted by law and notwithstanding any other provision of this General Resolution, the Board is hereby authorized to provide by Supplemental Resolution for the issuance of one or more Series of Bonds in fully registered form upon the conditions and with the restrictions provided therefor in such Supplemental Resolution. Such Supplemental Resolution shall include but shall not be limited to provisions concerning the medium of payment, denomination, form, date, redemption, purchase, transfer, cancellation and execution of such Series of Bonds.

(f) The Board is hereby authorized to provide by Related Supplemental Resolution for the issuance of one or more Series of Bonds solely in fully registered form registrable to a Depository, a nominee or the beneficial owner of the Bonds. The Board is further authorized to provide by the Related Supplemental Resolution that such Series of Bonds shall be evidenced by one or more certificates or by a system of book entries in form satisfactory to an Authorized Officer and to provide for payment, redemption, notices and like provisions in a manner consistent with such system of registration.

(g) All Bonds shall bear interest at such rate or rates and shall be dated the date specified by the Related Supplemental Resolution. If, however, as shown by the records of the Registrar, interest on such Bonds shall be in default, the Bonds issued in lieu of Bonds surrendered for transfer shall be dated the date to which interest has been paid in full on the Bonds surrendered or if no interest has been paid, from the date specified in the Related Supplemental Resolution.

Section 3.02. Legends. The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this General Resolution as may be necessary or desirable to comply with custom, or otherwise.

Section 3.03. Interchangeability of Bonds. Upon surrender thereof at the Principal Office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the Owner or his duly authorized attorney, Bonds may, at the option of the Owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same Series and maturity, of Authorized Denominations.

Section 3.04. Negotiability, Transfer and Registry. All Bonds issued under this General Resolution shall be negotiable, subject to the provisions for registration, transfer and exchange contained in this General Resolution and in the Bonds. So long as any of the Bonds shall remain Outstanding, the Board shall cause to be maintained and kept, at the Principal Office of the Registrar, books for the registration, transfer and exchange of Bonds. Upon presentation thereof for such purpose at said office, the Registrar shall register or cause to be registered in such books, and permit to be transferred thereon, any Bonds entitled to registration or transfer, under such reasonable regulations as the Registrar may prescribe.

Section 3.05. Transfer of Bonds. (a) Each Bond shall be transferable only upon the books of the Registrar, by the Owner thereof in person or by his duly authorized attorney, upon surrender thereof with a written instrument of transfer satisfactory to the Registrar, duly executed by the Owner thereof or his duly authorized attorney.

(b) The Board and any Paying Agent or Tender Agent may deem and treat the person in whose name any Bond shall be registered upon the books of the Registrar as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such

Bond and for all other purposes, and all such payments so made to any such Owner shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Board nor any Paying Agent or Tender Agent shall be affected by any notice to the contrary.

Section 3.06. Regulations With Respect to Exchanges and Transfers. In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Board shall execute and deliver or cause to be executed and delivered Bonds in accordance with the provisions of this General Resolution. For every such exchange or transfer of Bonds, whether temporary or definitive, the Board, the Paying Agent or the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and, except with respect to the delivery of definitive Bonds in exchange for temporary Bonds, or as otherwise provided herein or a Supplemental Resolution, may charge a sum sufficient to pay the cost of preparing each new Bond issued upon such exchange or transfer, which sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Board or the Registrar shall not be obliged to make any such exchange or transfer of Bonds of a Series during the period preceding an Interest Payment Date on such Bonds specified in the Related Supplemental Resolution.

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Board shall execute a new Bond of like interest rate or rates, if any, maturity, principal amount and other terms as the Bond so mutilated, destroyed, stolen or lost. In the case of a mutilated Bond, such new Bond shall be delivered only upon surrender and cancellation of such mutilated Bond. In the case of Bonds issued in lieu of and in substitution for a Bond which has been destroyed, stolen or lost, such new Bond shall be delivered only upon filing with the Registrar evidence satisfactory to establish to the Board and the Registrar that such Bond has been destroyed, stolen or lost and to prove the ownership thereof and upon furnishing the Board and the Registrar with indemnity satisfactory to them. The person requesting the delivery of a new Bond pursuant to this Section shall comply with such other reasonable regulations as the Board and the Registrar may prescribe and pay such expenses as the Board and the Registrar may incur or reasonably and customarily charge in connection therewith. All Bonds so surrendered to the Registrar shall be cancelled. Evidence of such cancellation shall be given to the Board upon request.

Section 3.08. Preparation of Definitive Bonds; Temporary Bonds. (a) Until definitive Bonds are prepared, the Board may execute and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, except as to the denominations thereof and as to exchangeability, one or more temporary Bonds, substantially of the tenor of the definitive Bonds in lieu of which such temporary Bonds are issued, with such omissions, insertions and variations as may be appropriate to temporary Bonds. Upon surrender of such temporary Bonds for exchange and cancellation, the Board at its own expense shall prepare and execute and, without charge to the Owner thereof, deliver in exchange therefor, at the Principal Office of the Registrar, definitive Bonds of the same aggregate principal amount, Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds issued pursuant to this General Resolution.

(b) All temporary Bonds surrendered in exchange for definitive Bonds shall be forthwith delivered to the Registrar for cancellation.

Section 3.09. Cancellation and Destruction of Bonds. All Bonds paid or redeemed, either at or before maturity shall be delivered to the Registrar when such payment or redemption is made, and such Bonds shall thereupon be promptly cancelled. Bonds so cancelled may at any time be cremated or otherwise destroyed by the Registrar, who shall execute a Certificate of cremation or destruction in duplicate by the signature of one of its authorized officers describing the Bonds so cremated or otherwise destroyed, and one executed Certificate shall be filed with the Board and the other executed Certificate shall be retained by the Registrar.

Section 3.10. Execution. After their authorization by a Related Supplemental Resolution, Bonds of a Series may be executed by or on behalf of the Board and delivered to the purchasers thereof. The Bonds shall be executed in the name and on behalf of the Board by the manual or facsimile signature of the Governor of the State and the manual or facsimile signature of the Chairman of the Board or in such other manner as prescribed by applicable law. The great seal of the State (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced thereon, and attested by the manual or facsimile signature of the Secretary of State of the State, or in such other manner as may be required by law. In case any one or more of the officers or employees who shall have signed or sealed any of the Bonds shall cease to be such officer or employee before the Bonds so signed and sealed shall have been actually delivered, such Bonds may nevertheless be delivered as herein provided, and may be issued as if the person who signed or sealed such Bonds had not ceased to hold

such office or be so employed. Any Bond may be signed and sealed on behalf of the Board by such persons as at the actual time of execution of such Bond of a Series shall be duly authorized or hold the proper office in or employment by the State, although at the date of delivery of the Bonds of such Series such persons may not have been so authorized or have held such office or employment.

ARTICLE IV

APPLICATION OF BOND PROCEEDS AND OTHER MONEYS OF THE BOARD

Section 4.01. Application of Bond Proceeds, Accrued Interest and Premium. A. Except as provided below or in a Related Supplemental Resolution, the proceeds of sale of any Series of Bonds shall initially be deposited in the Bond Proceeds Fund in the State Treasury. Thereafter, such proceeds or portions thereof shall be applied by the Board as follows:

(a) The accrued interest on the Bonds, if any, shall be deposited in the related Bond Fund;

(b) Any capitalized interest authorized by the Related Supplemental Resolution providing for the Bonds shall be deposited in the related Bond Fund;

(c) The amount required to cause the amount on deposit in the related Debt Service Reserve Fund (less any Reserve Fund Credit Facility) to equal the Debt Service Reserve Requirement for such Series of Bonds shall be deposited in such Debt Service Reserve Fund;

(d) The amount, if any, of the premium paid for the purchase of the Bonds shall be applied as required by the Related Supplemental Resolution;

(e) The amount, if any, to be applied to the refunding of Bonds or other obligations of the Board or its predecessor, the Board of Regents or Other Bonds, shall be applied as provided in the Related Supplemental Resolution establishing the issuance of the Refunding Bonds or the issuance of Bonds to refund other obligations of the Board or its predecessor, the Board of Regents or Other Bonds; and

(f) The amount to be applied to Costs of Issuance shall be deposited in the related Costs of Issuance Fund.

B. The balance remaining after such deposits and payments have been made shall be retained in the Bond Proceeds Fund and thereafter shall be disbursed by the State Treasurer (in accordance with applicable law) for payment of Project Costs, at the times and in the respective amounts as shall be determined by the Board.

Section 4.02. Application of Other Moneys. Upon issuance of a Series of Bonds, moneys of the Board which may be available therefore shall be deposited as provided in the Related Supplemental Resolution authorizing such Series of Bonds or the escrow agreement, if any, authorized thereby.

## ARTICLE V

### REDEMPTION OF BONDS

Section 5.01. Privilege of Redemption and Redemption Price. Bonds subject to redemption prior to maturity shall be redeemable, upon notice as provided in this Article, at such times, at such Redemption Prices and upon such other terms as may be specified in this General Resolution or in the Related Supplemental Resolution.

Section 5.02. Redemption at the Option of the Board. In the case of any redemption of Bonds other than as provided in Section 5.03 hereof, an Authorized Officer shall give written notice to the Registrar of its election or direction to so redeem, on the Redemption Date, the principal amounts of the Bonds of such Series and maturities to be redeemed (which Redemption Date, Series, maturities and principal amounts thereof to be redeemed shall be determined by the Board in its sole discretion, subject to any limitations with respect thereto contained in or permitted by this General Resolution or the Related Supplemental Resolution) and of any moneys to be applied to the payment of the Redemption Price. Such notice shall be given at least ten (10) days prior to the last permissible date for giving notice of redemption to Owners or such later date as shall be acceptable to the Registrar. In the event notice of redemption shall have been given as provided in Section 5.05 hereof, the Board shall, prior to the Redemption Date, pay or cause to be paid to the Paying Agent, an amount which, in addition to other moneys, if any, available therefor, will be sufficient to redeem on the Redemption Date at the Redemption Price thereof all the Bonds to be redeemed.

Section 5.03. Redemption Other Than at Board's Option. Whenever by the terms of this General Resolution or a Related Supplemental Resolution the Registrar is required to redeem Bonds of a Series other than at the option of the Board, and subject to and in accordance with the terms of this Article and the Related Supplemental Resolution, the Registrar shall select the Redemption Date of the Bonds to be redeemed, give the notice of redemption and pay the Redemption Price to the Owners of the Bonds. The Board may receive a credit against any such obligation to redeem as provided in the Related Supplemental Resolution.

Section 5.04. Selection of Bonds to be Redeemed. In the event of redemption of less than all the Outstanding Bonds of like Series and maturity, the Registrar shall assign to each such Outstanding Bond a distinctive number for each Authorized Denomination of the principal amount thereof so as to distinguish each such Authorized Denomination from each other portion of the Bonds subject

to such redemption. The Registrar shall select by lot, using such method of selection as it shall deem proper in its sole discretion, from the numbers assigned to such Bonds, as many numbers as, at Authorized Denomination for each number, shall equal the principal amounts of such Bonds to be redeemed. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected, but only so much of the principal amount of each such Bond of an Authorized Denomination shall be redeemed as shall equal an Authorized Denomination for each number assigned to it and so selected; provided that Bonds of such Series owned by a Credit Provider or its designee or pledged to a Credit Provider shall be selected before any other Bonds of the Series. For the purposes of this Section, Bonds which have theretofore been selected by lot for redemption shall not be deemed Outstanding.

Section 5.05. Notice of Redemption. When the Registrar receives notice from the Board of its exercise of its option to redeem Bonds pursuant to Section 5.02 hereof, and when redemption of Bonds is required by this General Resolution pursuant to Section 5.03 hereof, the Registrar shall give notice, in the name of the Board, of the redemption of such Bonds. Such notice shall specify the Series and maturities of the Bonds to be redeemed, the Redemption Date and the place or places where amounts due upon such redemption will be payable and, if less than all the Bonds of any like maturity are to be redeemed, the numbers or other distinguishing marks of such Bonds to be redeemed and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice shall be given by mailing a copy thereof, by first-class mail, postage prepaid, to the Owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses appearing on the registration books of the Board maintained by the Registrar not more than 60 nor less than 30 days prior to the date fixed for redemption or at such other time or times, provided in the Related Supplemental Resolution. The Registrar, at its discretion, may also give such notice by publication once in an Authorized Newspaper at such time in the Registrar's discretion so as to give sufficient notice to Owners of Bonds to be redeemed, but such publication shall not be a condition precedent to such redemption and failure so to publish any such notice shall not affect the validity of the proceedings for the redemption of Bonds.

Section 5.06. Payment of Redeemed Bonds. Notice having been given in the manner provided in Section 5.05 hereof, the Bonds or portions thereof so called for redemption shall become due and payable on the Redemption Date so designated at the Redemption Price, and, upon presentation and surrender thereof at the office specified in such notice, such Bonds, or portions thereof, shall be paid at the Redemption Price. If there shall be selected for redemption less than the entire principal amount of a Bond, the Board shall execute and deliver or cause to be executed and delivered, upon the surrender of such Bond, without charge to the Owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like Series and maturity in any of the Authorized Denominations. If, on the Redemption Date, moneys for the redemption of all the Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest to the Redemption Date, shall be held by the Paying Agent so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the Redemption Date, interest on the Bonds or portions thereof of such Series and maturities so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

## ARTICLE VI

### PARTICULAR COVENANTS

Section 6.01. Payment of Bonds. Subject to the provisions of Section 2.01 hereof, the Board shall duly and punctually pay or cause to be paid, as herein provided, the Principal, Purchase Price or Redemption Price of every Bond and the interest thereon, at the dates and places and in the manner stated in the Bonds, according to the true intent and meaning thereof and shall duly and punctually pay or cause to be paid all Sinking Fund Payments, if any, becoming payable with respect to any of the Bonds.

Section 6.02. Offices for Servicing Bonds. The Board shall at all times maintain an office or agency where notices, presentations and demands upon the Board in respect of the Bonds or of this General Resolution may be served.

Section 6.03. Power to Issue Bonds and Pledge of Revenues.

(a) The Board is duly authorized under the Constitution and laws of the State to authorize and issue the Bonds and to enter into, execute and deliver this General Resolution and to pledge the Revenues in the manner and to the extent herein provided. The Bonds and the provisions of this General Resolution are and will be the valid and legally enforceable obligations of the Board in accordance with the terms of the Bonds and of this General Resolution.

(b) The payment of the Debt Service on all Bonds issued under this General Resolution shall be secured forthwith equally and ratably by a first lien on the Revenues, and the Board hereby pledges the Revenues to payment of the Principal, Purchase Price and Redemption Price of and interest on the Bonds, but the existence of such pledge shall not prevent the expenditure, deposit or commingling of Revenues by the Board so long as all required payments under this General Resolution and any Supplemental Resolution are made at the times and in the amounts specified herein and therein, provided further, however, that the Board shall not commingle any of the Revenues with any revenues of the State University System Board. The Board shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of such Revenues pledged under this General Resolution and all the rights of the Owners under this General Resolution against all claims and demands of all persons whomsoever.

Section 6.04. Further Assurance. At any and all times the Board shall, so far as it may be authorized by law, pass, make, execute, acknowledge and deliver, all and every such further

resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming all and singular of the rights, Revenues and assets hereby pledged or assigned, or intended so to be, or which the Board may become bound to pledge or assign.

Section 6.05. Accounts and Reports. (a) The Board shall keep, or cause to be kept, proper books of record and account in which complete and accurate entries are made, which shall at all reasonable times be subject to the inspection of the Registrar and the Owners of an aggregate of not less than five percent (5%) in principal amount of Bonds Outstanding or their representatives duly authorized in writing.

(b) The Board shall annually file with the Registrar and with any Credit Provider, within one hundred twenty (120) days after the close of each Fiscal Year, a copy of an audited annual financial report as to the Revenues and its obligations hereunder and financial statements for such Fiscal Year, setting forth in reasonable detail:

(i) A combined statement of assets, liabilities and fund balance at the end of such Fiscal Year; and

(ii) A statement of revenues collected, expenses and costs paid and changes in fund balance in accordance with the categories or classifications established by the Board for its administrative and program purposes and showing the revenues and expenses during such Fiscal Year.

Such financial statements shall be accompanied by an Accountant's Certificate stating whether the financial statements examined fairly present the financial position of the Board at the end of the Fiscal Year, and whether the results of its operations and the changes in financial position for the period examined are in conformity with the State's modified basis of cash receipts and disbursements which is a comprehensive basis of accounting other than generally accepted accounting principles.

(c) If at any time during any Fiscal Year there shall have occurred an Event of Default referred to in subsection (a) or (b) of Section 9.01 hereof, then the Board shall file or cause to be filed with the Registrar within sixty (60) days after the close of such

Fiscal Year, a special report, accompanied by an Accountant's Certificate as to the fair presentation of the financial statements contained therein, setting forth in reasonable detail the individual balances and receipts and disbursements for each Fund hereunder.

Section 6.06. Debt Service Coverage. The Board shall at all times fix and otherwise provide for the collection of Revenues of the type set forth in subsection (i) of the definition of "Revenues" in section 1.02 hereof in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period, and Revenues of the type set forth in subsections (i) and (iii) of the definition of "Revenues" in Section 1.02 hereof in an amount not less than 120% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period. To evidence its compliance with this covenant, the Board shall, on or before each November 1, deliver to the Commission, any Credit Provider and each Original Purchaser of any Series of Bonds, a Certificate of an independent certified public accountant reciting that the Board was in compliance with this Section 6.06 hereof during the preceding Budget Period and setting forth the amount of Revenues collected, the amount of Debt Service paid and the percentage Debt Service coverage in effect for such Budget Period.

Section 6.07. Operation and Maintenance. The Board will, so long as any of the Bonds are Outstanding, cause the Colleges under its governance to maintain their facilities in good condition and operate the same in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof.

Section 6.08. Insurance. The Board will carry such insurance and in such amounts as is customarily carried with respect to properties similar to the facilities under its governance, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Board will require that each of its contractors and all subcontractors maintain workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance during the construction of any Project. The Board will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to all subcontractors as their interests may appear, during construction of any Project in the full insurable value thereof. The proceeds of all such insurance shall be used only for the repair and restoration of the damaged or destroyed properties. The Board will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and

customarily carried with respect to works and properties similar to the facilities under its governance.

Notwithstanding any of the foregoing, the Board may provide for the insurance required by this Section 6.08 through the State Board of Risk & Insurance Management by any program of self-insurance which the State provides for itself and its agencies.

Section 6.09. Issuance of Additional and Subordinate Obligations. (a) The Board will not issue any other obligations, except upon the conditions and in the manner provided in this General Resolution, payable from the Revenues or any portion thereof and having priority to or being on a parity with the lien of the Bonds issued pursuant to this General Resolution, nor voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or any other charge having priority to or being on a parity with the lien of the Bonds issued pursuant to this General Resolution.

(b) Nothing herein provided shall, however, prohibit the issuance by the Board of bonds, notes, certificates or other obligations or indebtedness of every kind and nature, the lien of which on the Revenues is subject to the prior and superior lien on such Revenues of the Bonds theretofore issued and to be issued pursuant to this General Resolution.

Section 6.10. Tax Covenants. (a) The Board shall at all times do and perform all acts and things necessary or desirable in order to assure that interest paid on Tax-Exempt Bonds shall, for the purposes of federal income taxation, be excludable from the gross income of the recipients thereof and exempt from such taxation.

(b) The Board shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Board to be used, directly or indirectly, to acquire any securities or obligations the acquisition of which would cause any Tax-Exempt Bond to be an "arbitrage bond" as defined in Section 148 of the Code or any successor provision.

Section 6.11. General. The Board shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Board under the provisions of this General Resolution in accordance with the terms of such provisions.

Section 6.12. Additional Covenants. The Board may make such additional covenants as it may deem necessary or advisable regarding any particular Series of Bonds in the Related Supplemental Resolution, so long as such additional covenants are not inconsistent with the terms of this General Resolution.



ARTICLE VII

FUNDS AND ACCOUNTS

Section 7.01. Creation of Funds. A. There are hereby created by the Board and ordered established the following funds to be held by the Commission:

(a) A Bond Fund with respect to each Series of Bonds;

(b) A Debt Service Reserve Fund with respect to each Series of Bonds for which the Debt Service Reserve Requirement is greater than zero; and

(c) For any Series of Bonds issued in whole or in part as Variable Rate Bonds, a Purchase Fund if so specified by a Related Supplemental Resolution.

B. There are hereby created by the Board and ordered established the following funds to be held by the State Treasury:

(a) A Bond Proceeds Fund with respect to each Series of Bonds; and

(b) A Costs of Issuance Fund for each Series of Bonds.

C. In addition to the foregoing funds, the Board may establish such other funds and accounts as it may deem appropriate for any particular Series of Bonds by provision therefor in the Related Supplemental Resolution.

Section 7.02. Bond Funds. (a) Revenues sufficient for such purposes shall be applied by the Board in the following order of priority, and except as may otherwise be provided in a Supplemental Resolution, such deposits shall be made semiannually, on the first day of each April and October:

(i) To each Bond Fund, an amount equal to the interest which has accrued since the last Interest Payment Date for the related Series of Bonds to and including the applicable Interest Payment Date and not previously deposited therein, plus an amount

equal to one-half of the Principal which shall be due and payable on the applicable Principal Payment Date for the related Series of Bonds and not previously deposited therein;

(ii) To the Commission, Registrar, Paying Agents, Remarketing Agents, Credit Providers, Tender Agents and other agents or fiduciaries for any Series of Bonds, the fees and expenses thereof, payable on or prior to such date;

(iii) On each Interest Payment Date for a Series of Bonds to the applicable Bond Fund, any deficiency in the amount necessary to pay the interest due on such Interest Payment Date;

(iv) On each Principal Payment Date for a Series of Bonds to the applicable Bond Fund, any deficiency in the amount necessary to pay the Principal due on such Principal Payment Date;

(v) To each Debt Service Reserve Fund, the amount required to be deposited therein pursuant to Section 7.04(a) hereof, or the Related Supplemental Resolution authorizing such Series of Bonds; and

(vi) To the applicable Bond Fund, the amount designated by the Board for the optional or mandatory redemption of the related Series of Bonds (other than Sinking Fund Payments).

(b) In the event the Revenues are insufficient during any semiannual or other period to make all of the deposits required by Section 7.02(a) above for all Bonds issued hereunder, the Board shall make payments pro-rata, in accordance with the respective Debt Service Requirements for each Series of Bonds.

Section 7.03. Payments to be Made from Bond Funds.

(a) Except as otherwise provided herein or in a Related Supplemental Resolution with respect to a Series of Bonds, moneys on deposit in a Bond Fund for a Related Series of Bonds shall be applied by the Commission in the following order and priority:

(i) On each Interest Payment Date, to payment of interest on all Bonds which has accrued and is payable on such Interest Payment Date;

(ii) On each Principal Payment Date, to payment of Principal on all Bonds which is payable on such Principal Payment Date;

(iii) If such Series of Bonds is secured by a Letter of Credit, to reimburse the Credit Provider for draws made under the Letter of Credit to pay the Principal of or interest on such Series of Bonds.

(b) Funds paid to the Commission to be used to redeem all or a portion of a Series of Bonds pursuant to optional or mandatory redemption provisions contained in a Related Supplemental Resolution (other than redemption from Sinking Fund Payments) shall be deposited in the related Bond Fund and used to pay the Redemption Price of Bonds called for optional or mandatory redemption (other than redemption from Sinking Fund Payments).

(c) Amounts received as a result of a draw under a Letter of Credit securing a Series of Bonds shall be deposited in the related Bond Fund and used solely to pay the principal of, premium, if secured by the Letter of Credit, and interest on the related Series of Bonds due on any Interest Payment Date, Principal Payment Date or date for optional or mandatory redemption of all or a portion of such Series of Bonds to the extent such redemptions are secured by such Letter of Credit.

(d) If any Series of Bonds is secured by a Letter of Credit, the Commission shall first apply amounts on deposit in the applicable Bond Fund to the payment of the principal of, premium, if any (to the extent premium may be secured by the Letter of Credit) and interest due on such Bonds and second, will apply other amounts available for such payment under this General Resolution.

Section 7.04. Debt Service Reserve Funds. (a) There shall be deposited into each Debt Service Reserve Fund the amounts provided in the Related Supplemental Resolution authorizing the applicable Series of Bonds.

(b) Moneys on deposit in a Debt Service Reserve Fund shall be transferred to the Bond Fund relating to the same Series of Bonds on any Interest Payment Date or Principal Payment Date for such Series of Bonds to the extent amounts on deposit in such Bond Fund are

insufficient to pay the Debt Service due on the related Series of Bonds on such date and if the related Series of Bonds is secured by a Credit Facility, to reimburse the Credit Provider for amounts paid under the Credit Facility for payment of the principal of and/or interest due on such Series of Bonds. Moneys on deposit in a Debt Service Reserve Fund shall be transferred to the Bond Fund relating to the same Series of Bonds at the direction of the Board for the purpose of paying the last maturing Principal of such Bonds on a Principal Payment Date or if all of the Bonds are being redeemed pursuant to provisions of the Related Supplemental Resolution pursuant to optional or mandatory redemption (other than redemption from Sinking Fund Payments), to such Bond Fund for redemption of such Series of Bonds. If a Reserve Fund Credit Facility is delivered to the Commission for deposit in a Debt Service Reserve Fund and it is necessary to use money in the Debt Service Reserve Fund to satisfy a deficiency in the applicable Bond Fund, the Commission shall first use any moneys or securities on deposit in such Debt Service Reserve Fund to satisfy such deficiency in the priority described above and second, draw on such Reserve Fund Credit Facility in a timely manner and pursuant to the terms of such Reserve Fund Credit Facility to the extent necessary to satisfy any remaining deficiency. Amounts drawn under any Reserve Fund Credit Facility shall be deposited in the appropriate Account of the applicable Bond Fund.

(c) Unless the Related Supplemental Resolution provides for periodic payments to be made to such Debt Service Reserve Fund or as may otherwise be provided therein, moneys in a Debt Service Reserve Fund shall at all times be maintained in an aggregate amount not less than the Debt Service Reserve Requirement for the applicable Series of Bonds. During any period the amount on deposit in a Debt Service Reserve Fund is less than the related Debt Service Reserve Requirement, all income from the investment of moneys in such Debt Service Reserve Fund shall be retained therein and, unless otherwise provided in the Related Supplemental Resolution, the Board shall restore any deficiency from the first available Revenues transferred in the order of priority described in Section 7.02(a) hereof.

(d) If at any time the amount on deposit in a Debt Service Reserve Fund exceeds the applicable Debt Service Reserve Requirement, the Commission shall, at the direction of the Board, either transfer the amount by which the amount of money on deposit in the Debt Service Reserve Fund exceeds the Debt Service Reserve Requirement to the related Bond Fund or transfer such amount to the Board, if the Board's direction is accompanied by a Bond Counsel's Opinion to the effect that such transfer will not adversely affect the excludability from gross income of the interest on Tax-Exempt Bonds.

(e) In lieu of making a deposit to a Debt Service Reserve Fund in compliance with Section 7.04(a) hereof, or in replacement of any or all moneys then on deposit in a Debt Service Reserve Fund, the Board, with the consent of the Credit Provider for such Series of Bonds, if any, may deliver to the Commission a Reserve Fund Credit Facility in an amount which, together with moneys, Permitted Investments or other Reserve Fund Credit Facilities on deposit in such Debt Service Reserve Fund, equals or exceeds the Debt Service Reserve Requirement. Except as may otherwise be provided in a Related Supplemental Resolution, such Reserve Fund Credit Facility shall name the Commission as beneficiary or insured, shall have a term of no less than one (1) year and shall provide by its terms that it may be drawn upon as provided in this subparagraph (e). At least three months prior to the stated expiration of such Reserve Fund Credit Facility, the Board shall either (i) provide for delivery of a replacement Reserve Fund Credit Facility meeting the requirements of this subparagraph (e), or (ii) deliver an extension of the Reserve Fund Credit Facility for at least an additional year. Upon delivery of a replacement Reserve Fund Credit Facility, the Commission shall deliver the then-effective Reserve Fund Credit Facility to or upon the order of the Board. If the Board fails to deposit a replacement Reserve Fund Credit Facility or extend the existing Reserve Fund Credit Facility, the Commission shall immediately commence to make monthly deposits from the Bond Fund in accordance with the priority set forth in Section 7.02(a) hereof, so that an amount equal to the applicable Debt Service Reserve Requirement is on deposit in the related Debt Service Reserve Fund no later than the fifteenth (15th) day immediately preceding the stated expiration date of the Reserve Fund Credit Facility. If the amount on deposit in a Debt Service Reserve Fund on the fifteenth day immediately preceding the stated expiration date of such Reserve Fund Credit Facility is less than the Debt Service Reserve Requirement, the Commission shall draw on the Reserve Fund Credit Facility in the amount of such shortfall and shall deposit the proceeds of such drawing in the applicable Debt Service Reserve Fund.

(f) Except as may otherwise be provided in a Related Supplemental Resolution, for the purposes of determining the amount from time to time on deposit in a Debt Service Reserve Fund, Permitted Investments shall be valued semiannually on April 1, and October 1 of each year, commencing April 1, 1993. To the extent such Permitted Investments are United States Treasury Certificates and Notes - State and Local Government Series, such investments shall be valued as if such United States Treasury Certificates and Notes - State and Local Government Series were Open Market United States Treasury Bonds having the same maturities and interest rates.

Section 7.05. Costs of Issuance Funds. The Board shall deposit into the Costs of Issuance Fund relating to a Series of Bonds the amount required to be deposited therein in the Related Supplemental Resolution. The State Treasury is hereby authorized and directed to make disbursements from a Costs of Issuance Fund upon receipt of a Requisition signed by an Authorized Officer. The State Treasury shall keep and maintain adequate records pertaining to each Costs of Issuance Fund and all disbursements therefrom. Any amounts remaining in a Costs of Issuance Fund after receipt of written notice by the Board that all such Costs of Issuance have been paid or six months after their deposit therein, whichever is earlier, shall be transferred by the State Treasury to the Board.

Section 7.06. Nonpresentment of Bonds; Disposition of Unclaimed Money. In the event any Bond shall not be presented for payment when the Principal thereof becomes due on a Principal Payment Date, if funds sufficient to pay any such Bond have been made available to the Paying Agent for the benefit of the Owner thereof, all liability of the Board to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under this General Resolution or on, or with respect to, such Bond.

Any moneys so deposited with and held by the Paying Agent not so applied to the payment of Bonds within five (5) years after the Principal Payment Date on which the same shall have become due shall be repaid by the Paying Agent to the Board upon direction of an Authorized Officer, and thereafter the Owners of Bonds shall be entitled to look only to the Board for payment, and then only to the extent of the amount so repaid, and all liability of the Paying Agent with respect to such money shall thereupon cease, and the Board shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 7.07. Moneys to be Held in Trust. With the exception of moneys in a Bond Purchase Fund, all moneys required to be deposited with or paid to the Commission for the account of any fund or account shall be held by the Commission in trust, and shall, while held by the Commission, be subject to the lien and security interest created hereby.

Section 7.08. Repayment to Board from Funds. Any amounts remaining in a Bond Fund, a Costs of Issuance Fund or a Debt Service Reserve Fund relating to a Series of Bonds after payment in full of

the Principal of, premium, if any, and interest on the Bonds of such Series, the fees, charges and expenses of the Commission and any agents thereof, the fees and expenses of any Credit Provider with respect to such Series of Bonds, any Registrar, Paying Agent or any Remarketing Agent and all other amounts required to be paid hereunder with respect to such Series of Bonds shall be disbursed by the Commission to the Board to be used for any lawful purpose of the Board.

Section 7.09. Creation of Additional Funds, Accounts and Subaccounts. The Commission shall, at the written request of the Board, establish such additional funds, accounts and subaccounts within or in addition to any of the funds established under this General Resolution as shall be specified in such written request, for the purpose of identifying more precisely the sources of payments into and disbursements from such funds, accounts and subaccounts; but the establishment of any such additional funds, accounts or subaccounts shall not alter or modify any of the requirements of this General Resolution with respect to the deposit or use of moneys in any fund, account or subaccount established hereunder.

Section 7.10. Investment of Certain Funds. Any fund or account held by the Board or on behalf of the Board by the Commission or the State Treasury, may be invested and reinvested or deposited in Permitted Investments having yields and maturities as determined by an Authorized Officer.

(b) Subject to the right of an Authorized Officer to direct the investment or deposit of funds hereunder, moneys in any fund or account held by the Commission or the State Treasury shall be continuously invested and reinvested or deposited and redeposited by the Commission or the State Treasury in the highest yield Permitted Investments that may be reasonably known to the Commission or the State Treasury, with a view toward maximizing yield (with proper preservation of principal) and minimizing the instances of uninvested funds. An Authorized Officer shall consult with the Commission or the State Treasury from time to time as to the investment of amounts in the funds and accounts held by the Commission or the State Treasury. An Authorized Officer may direct the Commission or the State Treasury to, or in the absence of direction, the Commission or the State Treasury shall, invest and reinvest the moneys in all funds and accounts in Permitted Investments so that the maturity date or date of redemption at the option of the owner thereof shall coincide as nearly as practicable with the times at which moneys are needed to be so expended. The Permitted Investments purchased shall be held by the Commission or the State Treasury and shall be deemed at all times to be part of such fund or account, and the Commission or the State

Treasury shall keep the Board advised as to the details of all such investments.

(c) Permitted Investments purchased as an investment of moneys in any fund or account under the provisions of this General Resolution shall be deemed at all times to be a part of such fund or account, and the income or interest earned and gains realized in excess of losses suffered by a fund or account due to the investment thereof shall be credited thereto.

Section 7.11. Valuation and Sale of Investments.

(a) Except as may be provided in a Related Supplemental Resolution with respect to funds and accounts relating to the applicable Series of Bonds, in computing the amount in any fund or account, Permitted Investments shall be valued at the lower of the cost or market price, exclusive of accrued interest. With respect to all funds and accounts except a Debt Service Reserve Fund, valuation shall occur annually. All Debt Service Reserve Funds shall be valued semiannually, except in the event of a withdrawal from such Debt Service Reserve Fund, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in any Debt Service Reserve Fund shall at any time be less than the applicable Debt Service Reserve Requirement, such deficiency shall be made up from first available moneys after required deposits to the Related Bond Fund.

(b) Except as otherwise provided herein, the Commission or the State Treasury shall sell at the best price obtainable, or present for redemption, any Investment Security whenever it shall be required in writing by an Authorized Officer to do so or whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any fund or account held by it, and the Commission or the State Treasury shall sell at the best price obtainable, or present for redemption, any Investment Security whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any fund or account held by the Board. An Investment Security may be credited on a pro-rata basis to more than one fund or account and need not be sold in order to provide for the transfer of amounts from one fund or account to another.

Section 7.12 Disposition of Revenues. Upon receipt of any Revenues by the State Treasury during each January and September, the Board shall retain and not expend for any purpose (other than payment of routine administrative costs associated with the Board's capital improvement program) an amount at least equal to the portion of Debt Service payable on the next semiannual Interest Payment Date.

## ARTICLE VIII

### DEFEASANCE

Section 8.01. Defeasance. (a) If the Board shall pay or cause to be paid to the Owners of the Bonds the Principal, Purchase Price or Redemption Price, if applicable, and interest and all other amounts due or to become due thereon, at the times and in the manner stipulated therein and in this General Resolution, then the pledge of the Revenues, payments made by the Board in satisfaction of covenants contained herein and other moneys, securities and funds hereby pledged and all other rights granted hereby shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Commission shall, upon the request of the Board, execute and deliver to the Board all instruments as may be desirable to evidence such discharge and satisfaction and shall pay over or deliver to the Board all moneys or securities held by the Commission or the State Treasury pursuant to this General Resolution which are not required for the payment of Bonds. If the Board shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Outstanding Bonds of a particular Series the Principal, Purchase Price or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in this General Resolution, then such Bonds shall cease to be entitled to any lien, benefit or security hereunder and all covenants, agreements and obligations of the Board to the Owners of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Payments of Principal and interest on Bonds made by a Credit Provider pursuant to a Credit Facility shall not be deemed to have been paid within the meaning of this Section and such payments shall continue to be due and owing hereunder until paid by the Board within the meaning of this Section and any agreement pursuant to the terms of which such Credit Facility is delivered.

(b) Bonds for the payment of which moneys or securities shall have been set aside and held in trust by the Commission, the State Treasury or an escrow trustee designated by the Board (through deposit by the Board of funds for such payment or otherwise) shall be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) of this Section. All Bonds shall, prior to the maturity or Redemption Date thereof, be deemed to have been paid within the meaning and with the effect expressed in paragraph (a) of this Section if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Board shall have given to the Commission, the State Treasury or escrow trustee, in form satisfactory to it, irrevocable instructions to give notice of redemption of such Bonds (other than Bonds which have been delivered to the Registrar by

the Board and cancelled by the Registrar as provided in paragraph (c) of this Section prior to the mailing of such notice of redemption) on said date as provided in Article V, (ii) there shall have been deposited with the Commission or escrow trustee, Defeasance Obligations (including any Defeasance Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Commission or escrow trustee at the same time, shall be sufficient to pay when due the Principal or Redemption Price of and interest due and to become due on said Bonds on and prior to the Redemption Date or maturity date thereof, as the case may be, and (iii) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Board shall have given the Commission or escrow trustee, in form satisfactory to it, irrevocable instructions to mail, by first class mail, postage prepaid, as soon as practicable, a notice to the Owners of such Bonds as of the date of such deposit that the deposit required by (ii) above has been made and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or Redemption Date upon which moneys are to be available for the payment of the Principal or Redemption Price of and interest on said Bonds (other than Bonds which have been delivered to the Registrar by the Board and cancelled by the Registrar as provided in paragraph (c) of this Section prior to the mailing of the notice of redemption referred to in (i) above).

(c) If at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with paragraph (b) of this Section which are not to be redeemed prior to their maturity date or (ii) prior to the mailing of the notice of redemption referred to in paragraph b(i) of this Section with respect to Bonds deemed to have been paid in accordance with paragraph (b) of this Section which are to be redeemed on any date prior to their maturity, the Board purchases or otherwise acquires any such Bonds and delivers such Bonds to the Registrar prior to their maturity date or the date of mailing notice of redemption, as the case may be, the Registrar shall immediately cancel all such Bonds so delivered. Such delivery of Bonds to the Registrar shall be accompanied by directions from an Authorized Officer to the Registrar specifying the portion, if any, of such Bonds to be applied against the obligation of the Commission or escrow trustee to pay Bonds deemed paid in accordance with paragraph (b) of this Section upon their maturity date and the portion, if any, of such Bonds to be applied against the obligation of the Commission or escrow trustee to redeem Bonds deemed paid in accordance with paragraph (b) of this Section on any date prior to their maturity. In the event that on any date as a result of any delivery and cancellation of Bonds as provided in this paragraph the total amount

of moneys and Defeasance Obligations held in trust under this Section is in excess of the total amount which would have been required to be set aside in trust on such date in respect of the remaining Bonds in order to satisfy paragraph (b) of this Section, the Commission or escrow trustee shall, if requested by an Authorized Officer, pay the amount of such excess to the Board free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under this General Resolution provided that the Board also delivers with such request (i) a Bond Counsel's Opinion to the effect that such transfer will not adversely affect the excludability of interest on Tax-Exempt Bonds from the Owners thereof and (ii) an Accountant's Certificate to the effect that the moneys and Defeasance Obligations remaining on deposit are sufficient to pay the principal of or Redemption Price of the remaining Bonds deemed to have been paid. The Commission or escrow trustee shall be entitled to rely upon such opinion and certificate and the same shall be conclusive as to the Commission or escrow trustee.

(d) For purposes of determining whether Variable Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of Defeasance Obligations in accordance with paragraph (b) of this Section, the interest to come due on such Variable Rate Bonds on or prior to their maturity date or redemption date, as the case may be, shall be calculated at the Maximum Rate; provided, however, that if on such date of calculation the interest rate on such Bonds shall then be fixed for a specified period, the interest rate used for such specified period for purposes of the foregoing calculation shall be such actual interest rate; provided further that if on any date, as a result of such Variable Rate Bonds having borne interest at less than such Maximum Rate for any period, the total amount of Defeasance Obligations set aside in trust for the payment of interest on such Variable Rate Bonds is in excess of the total amount which would have been required to be set aside in trust on such date in respect of such Variable Rate Bonds in order to satisfy paragraph (b) of this Section, the Commission or escrow trustee shall, if requested by an Authorized Officer, pay the amount of such excess to the Board free and clear of any trust, lien, pledge or assignment securing the Bonds or otherwise existing under this General Resolution.

(e) If, through the deposit of moneys by the Board or otherwise, the Commission or escrow trustee shall hold, pursuant to this General Resolution, moneys sufficient to pay the principal of and interest to maturity on all Outstanding Bonds, or in the case of Bonds in respect of which the Board shall have taken all action necessary to redeem prior to maturity, sufficient to pay the Redemption Price and interest to such Redemption Date, then at the request of the Board all

moneys held by the Commission or escrow trustee shall be held by the Commission or escrow trustee for the payment of Outstanding Bonds.

(f) Any cash received from principal of or interest payments on Defeasance Obligations deposited with the Commission or escrow trustee pursuant to this Section, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Defeasance Obligations maturing at times and in amount sufficient to pay when due the principal or Redemption Price of and interest to become due on said Bonds on and prior to such maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Board, as received by the Commission or escrow trustee, free and clear of any trust, lien or pledge.

## ARTICLE IX

### DEFAULTS AND REMEDIES

Section 9.01. Events of Default. Each of the following events is hereby declared to be an "Event of Default" hereunder:

(a) Failure by the Board to make payment of the Principal or Redemption Price, if any, of any Bond when and as the same shall become due, whether at maturity or upon call for redemption or otherwise;

(b) Failure by the Board to make payment of interest on any of the Bonds when and as the same shall become due;

(c) Failure or refusal by the Board to comply with the provisions of this General Resolution or any Supplemental Resolution, or default by the Board in the performance or observance of any of the covenants, agreements or conditions on its part contained herein, in any Supplemental Resolution or in the Bonds and the continuance of such failure, refusal or default for a period of sixty (60) days after written notice thereof by the Commission, a Credit Provider or the Owners of not less than fifty percent (50%) in Principal amount of the Outstanding Bonds;

(d) A decree or order by a court of competent jurisdiction shall have been entered adjudging the Board a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization or arrangement of the Board under the United States Bankruptcy Code or any other similar applicable federal or state law, and such decree or order shall have continued undischarged and unstayed for a period of ninety (90) days; or a decree or order of a court of competent jurisdiction for the appointment of a receiver or trustee or assignee in bankruptcy or insolvency of the Board or of its property, or for the winding

up or liquidation of its affairs, shall have been entered, and such decree or order shall have remained in force undischarged and unstayed for a period of ninety (90) days;

(e) The Board shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the institution of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization or arrangement under the United States Bankruptcy Code or any other similar applicable federal or state law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or trustee or assignee in bankruptcy or insolvency of it or of its property, or shall make assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(f) Any event of default under any Supplemental Resolution.

Section 9.02. Remedies. (a) Upon the happening and continuance of any Event of Default, any Credit Provider or the Owners of not less than fifty percent (50%) in principal amount of the Outstanding Bonds may, by written notice to the Board and each Credit Provider, declare the entire Principal of the Bonds to be due and payable, and upon such declaration, the same shall become due and payable, anything in this General Resolution or the Bonds to the contrary notwithstanding. This provision, however, is subject to the condition that if, at any time after the Principal of the Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, (i) the Board pays or deposits with the Commission a sum sufficient to pay all interest due upon all such Bonds and the Principal and premium, if any, of all such Bonds that shall have become due otherwise than by acceleration (with interest on overdue interest and on such Principal and premium, if any, at the rate specified in the Related Supplemental Resolution) and the expenses of the Commission, the Registrar and the Paying Agent, (ii) any and all Events of Default under this General Resolution, other than the nonpayment of Principal of and accrued interest on such Bonds that shall have become due by acceleration, shall have been remedied, and (iii) each Credit Facility is fully reinstated to the coverage

amount provided in the Related Supplemental Resolution, such Owners shall, with the consent of each Credit Provider, waive all Events of Default and rescind and annul such declaration and its consequences; but no such waiver or rescission and annulment shall extend to or affect any subsequent Event of Default, or shall impair any right consequent thereon. The Owners shall not have the right to waive any Event of Default hereunder, if, at the time of such Event of Default, a Credit Facility is in effect with respect to any Series of Bonds, without the written consent of the Credit Provider to such waiver.

(b) Upon the happening and continuance of any Event of Default, and in addition to the remedy provided in (a) above, the Owners of not less than fifty percent (50%) in aggregate Principal amount of the Bonds Outstanding, may proceed to protect and enforce the rights of the Owners by such of the following remedies, which are then permitted by law, as they shall deem most effectual to protect and enforce such rights:

(i) By mandamus or other suit, action or proceeding at law or in equity, to enforce all rights of the Owners, including the right to require the Board to receive and collect Revenues adequate to enable the Board to carry out any of the covenants or agreements with Owners and to perform its duties as prescribed by law;

(ii) By bringing suit upon the Bonds;

(iii) By action or suit in equity, to require the Board to account as if it were the trustee of an express trust for the Owners of the Bonds; or

(iv) By action or suit in equity, to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

(c) In the enforcement of any rights and remedies under this General Resolution, any Owner shall be entitled to sue for, enforce payment of and receive any and all amounts then, or during any

Event of Default becoming, and at any time remaining, due and unpaid from the Board for Principal, interest or otherwise, under any provisions of this General Resolution or a Related Supplemental Resolution or of the Bonds, with interest on overdue payments at the rate of interest specified in the Related Supplemental Resolution, together with any and all costs and expenses of collection and of all proceedings under such General Resolution, Supplemental Resolution or Bonds, without prejudice to any other right or remedy of any other Owners, and to recover and enforce a judgment or decree against the Board for any portion of such amounts remaining unpaid, with interest, costs and expenses (including without limitation pre-trial, trial and appellate attorney fees), and to collect from any moneys available for such purpose, in any manner provided by law, the moneys adjudged or decreed to be payable.

(d) Upon the occurrence of any Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Owners under this General Resolution, the Owners shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Revenues and the Funds and Accounts, pending such proceedings, with such powers as the court making such appointment shall confer.

(e) Notwithstanding any provision of this Section 9.02 to the contrary, neither the Commission nor the Owners of any Bond of a Series for which a Credit provider has provided a Credit Facility may undertake any remedies under this General Resolution without the prior written consent of such Credit Provider.

Section 9.03. Priority of Payments After Event of Default.

(a) In the event that upon the happening and continuance of any Event of Default the funds held by the Commission shall be insufficient for the payment of the Principal or Redemption Price of and interest then due on the Bonds, such funds (other than funds held for the payment of particular Bonds which have theretofore become due at maturity and amounts representing proceeds of a draw or payment under a Credit Facility) and any other amounts received or collected by the Commission acting pursuant to this Article (other than proceeds or a draw or payment under a Credit Facility), after making provision for the payment of any expenses necessary in the opinion of the Commission to protect the interest of the Owners of the Bonds and for the payment of the charges and expenses and liabilities incurred and advances made by the Commission in the performance of its duties under this General Resolution, shall be applied, subject to Section 9.11, as follows:

(i) Unless the Principal of all of the Bonds shall have become

or have been declared due and payable:

FIRST: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amounts available shall not be sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference;

SECOND: To the payment to the persons entitled thereto of the unpaid Principal or Redemption Price of any Bonds which shall have become due and, if the amounts available shall not be sufficient to pay in full all the Bonds due, then to the payment thereof ratably, according to the amounts of Principal or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference; and

THIRD: To be held for the payment to the persons entitled

thereto, as the same shall become due, of the Principal or Redemption Price of and interest on the Bonds which may thereafter become due and, if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, together with such interest, payment shall be made ratably according to the amount of Principal due on such date to the persons entitled thereto, without any discrimination or preference.

(ii) If the Principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the Principal and interest then due and unpaid upon the Bonds without preference or priority of Principal over interest or of interest over Principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for Principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds.

(b) Whenever moneys are to be applied by the Commission pursuant to the provisions of this Section, such moneys shall be applied by the Commission at such times, and from time to time, as the Commission in its sole discretion shall determine, having due regard to the amount of such moneys available for such application and the

likelihood of additional money becoming available for such application in the future. The setting aside of such moneys in trust for the proper purpose, shall constitute proper application by the Commission, and the Commission shall incur no liability whatsoever to the Board, to any Owner or to any other person for any delay in applying such moneys, so long as the Commission acts with reasonable diligence, having due regard for the circumstances, and ultimately applies the same in accordance with such provisions of this General Resolution as may be applicable at the time of application by the Commission. Whenever the Commission shall exercise such discretion in applying such moneys, it shall fix the date (which shall be an Interest Payment Date unless the Commission shall deem another date more suitable) upon which such application is to be made. The Paying Agent shall not be required to make payment to the Owner of any Bond unless such Bond shall be presented to the Registrar for appropriate endorsement or for cancellation if fully paid.

Section 9.04. Termination of Proceedings. In case any proceedings taken by the Commission on account of any Event of Default shall have been discontinued or abandoned for any reason, then in every such case the Board, the Commission, the Credit Providers and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers, and duties of the Commission shall continue as though no such proceeding had been taken.

Section 9.05. Owners' Direction of Proceedings. Anything in this General Resolution to the contrary notwithstanding, the Owners of the majority in principal amount of the Bonds Outstanding shall have the right, by an instrument or concurrent instruments in writing executed and delivered to the Board and the Commission, to direct the method of conducting all remedial proceedings to be taken by the Commission hereunder, provided that such direction shall not be otherwise than in accordance with law or the provisions of this General Resolution or a Supplemental Resolution, and that the Commission shall have the right to decline to follow a direction which, in the opinion of the Commission, it is not permitted or authorized to perform under the laws of the State or would be unjustly prejudicial to Owners not parties to such direction.

Section 9.06. Limitation on Rights of Owners. No Owner of any Bond shall have any right to institute any suit, action, mandamus or other proceeding in equity or at law hereunder, for the protection or enforcement of any right under this General Resolution unless such Owner shall have given to the Board, each Credit Provider and the Commission written notice of the Event of Default or breach of duty on account of which such suit, action or proceeding is to be taken, and unless the Owners of not less than fifty percent (50%) in Principal

amount of the Bonds Outstanding shall have made written request of the Board and the Commission after the right to exercise such powers or right of action, as the case may be, shall have accrued. Such notifications are hereby declared in every such case, at the option of the Board, to be conditions precedent to the execution of the powers under this General Resolution or for any other remedy hereunder or by law. It is understood and intended that no one or more Owners of the Bonds hereby secured shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this General Resolution, or to enforce any right hereunder or under law with respect to the Bonds or this General Resolution, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all Owners of the Outstanding Bonds. Nothing contained in this Article shall affect or impair the right of any Owner to enforce the payment of the Principal of and interest on his Bonds, or the obligation of the Board to pay the principal of and interest on each Bond issued hereunder to the Owner thereof at the time and place expressed in said Bond.

Section 9.07. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Owners of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 9.08. No Waiver of Event of Default. No delay or omission of any Owner of the Bonds to exercise any right or power shall be construed to be a waiver of any such Event of Default or any acquiescence therein and every power and remedy given by this General Resolution to the Owner of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

Section 9.09. Notice of Event of Default. The Board shall give to the Owners and each Credit Provider notice of each Event of Default hereunder known to the Board within ninety (90) days after actual knowledge of the occurrence thereof, unless such Event of Default shall have been remedied or cured before the giving of such notice; provided that, except in the case of default in the payment of the Principal or Redemption Price of or interest on any of the Bonds, or in the making of any payment required to be made into a Bond Fund, the Board shall be protected in withholding such notice if and so long as the Board in good faith determines that the withholding of such notice from the Owners is in the interest of the Owners. Each such notice to Owners of an Event of Default shall be given by the Board by mailing written notice thereof to all Owners appearing on the registration books of the Board maintained by the Registrar.

Section 9.10. Subordination of Claims for Interest. No claim for interest appertaining to any of the Bonds which in any way at or after maturity shall have been transferred or pledged (other than a Credit Provider upon the payment of such interest and the transfer to such Credit Provider of the right to payment of interest) separate and apart from the Bond to which it appertains shall, unless accompanied by such Bond, be entitled, in case of an Event of Default hereunder, to any benefit by or from this General Resolution, except after the prior payment in full of the Principal of all of the Bonds then due and of all claims for interest then due not so transferred or pledged.

Section 9.11. Rights of Credit Providers. In the event that the Board provides for the securing of payment of the Principal, Redemption Price of or interest on the Bonds of one or more Series by obtaining a Credit Facility with respect to Debt Service, the Board by Supplemental Resolution or an Authorized Officer by contract with the Credit Provider is authorized to provide appropriate remedies for the Credit Provider upon payment of Debt Service, including, but not limited to, the right to be deemed and treated as the Owner of any Bonds secured by such Credit Facility for all purposes of this Article IX and Article X and for purposes of being given notices or giving directions or consents.

ARTICLE X

SUPPLEMENTAL RESOLUTIONS

Section 10.01. Supplemental Resolution Without Owner Consent. For any one or more of the following purposes and at any time or from time to time, the Board may adopt, execute and deliver a Supplemental Resolution, without notice to or the consent of the Owners of Bonds:

(a) To close this General Resolution against, or provide limitations and restrictions in addition to the limitations and restrictions contained in this General Resolution on the delivery of Bonds or the issuance of other evidences of indebtedness;

(b) To add to the covenants and agreements of the Board in this General Resolution other covenants and agreements to be observed by the Board which are not contrary to or inconsistent with this General Resolution as theretofore in effect;

(c) To add to the limitations and restrictions in this General Resolution other limitations and restrictions to be observed by the Board which are not contrary to or inconsistent with this General Resolution as theretofore in effect;

(d) To surrender any right, power or privilege reserved to or conferred upon the Board by the terms of this General Resolution, but only if the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Board contained in this General Resolution;

(e) To subject to the lien and pledge created or to be created by, this General Resolution any other revenues or assets other than the Revenues;

(f) To cure any ambiguity, supply any omission, or cure or correct any defect or

inconsistent provision in this General Resolution;

(g) To insert such provisions clarifying matters or questions arising under this General Resolution as are necessary or desirable and are not contrary to or inconsistent with this General Resolution as theretofore in effect;

(h) To modify any of the provisions of this General Resolution in any respect whatsoever, if such modification shall be, and be expressed to be, effective only after all Bonds Outstanding and affected thereby at the date of the adoption of such Supplemental Resolution shall cease to be Outstanding;

(i) To authorize the issuance of additional Series of Bonds and to prescribe the terms and conditions upon which such Bonds may be issued;

(j) To provide for the issuance of Bonds in such form as permitted by Section 3.01 hereof, and to make such other provisions as are necessary to provide for Bonds issued in such form;

(k) To modify, alter, amend or supplement this General Resolution in such manner as may be necessary or appropriate to qualify this General Resolution under the Trust Resolution Act of 1939 as then amended, or under any similar federal or state statute hereafter enacted;

(l) To modify, alter, amend or supplement this General Resolution in connection with the issuance of a Series of Bonds which by its terms affects only the proposed Series of Bonds and/or Bonds issued after the date of such Supplemental Resolution, which modification, alteration, amendment or supplement does not change the terms of redemption or maturity of the Principal of any Outstanding Bond or of any

installment of interest thereon, or reduce the percentages or otherwise affect the classes of Outstanding Bonds, the consent of the Owners of which is required to effect modifications, alterations, amendments, or supplements to this General Resolution;

(m) To impose a book-entry system for one or more Series of Bonds;

(n) To modify, alter, amend or supplement this General Resolution in any manner which is deemed necessary in Bond Counsel's Opinion to maintain the excludability from gross income of interest on any Tax-Exempt Bonds for federal income tax purposes;

(o) To modify, alter, amend or supplement this General Resolution in any manner which, in Bond Counsel's opinion does not materially adversely affect the interests of the Owners of the Bonds or any Credit Provider; or

(p) To modify, alter, amend or supplement this General Resolution or any Related Supplemental Resolution in any manner which affects only a Series of Bonds which are subject to optional or mandatory tender for purchase, after giving the notice for the period set forth in the Related Supplemental Resolution, if after receipt of such notice, the Owners have the opportunity to tender their Bonds for mandatory or optional tender at the time specified in the Related Supplemental Resolution.

Section 10.02. Supplemental Resolutions With Owner Consent.

(a) Any modification of or amendment to this General Resolution and of the rights and obligations of the Board and of the Owners of the Bonds hereunder other than as permitted under Section 10.01 hereof, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in Section 10.03 hereof (i) of the Owners of at least fifty percent (50%) in Principal amount of the Bonds Outstanding at the time such consent is given and the Credit Provider, if any, (ii) in case less than all of the several Series of Bonds Outstanding are affected by the modification or amendment, of

the Owners of at least fifty percent (50%) in Principal amount of the Bonds and the Credit Provider, if any, of each Series so affected and Outstanding at the time such consent is given, and (iii) in case less than all the maturities of a Series of Bonds are affected by the modification or amendment, of the Owners of at least fifty percent (50%) in Principal amount of the Bonds of each maturity and the Credit Provider, if any, so affected and Outstanding at the time such consent is given. If any such modification or amendment will not take effect until certain Bonds shall no longer remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section.

(b) No such modification or amendment shall permit a change in the terms of redemption or maturity of the Principal of any Outstanding Bond or of any installment of interest thereon without the consent of the Owner of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds, the consent of the Owners of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Commission or any Credit Provider without its written consent thereto. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of this General Resolution if the same adversely affects or diminishes the rights of the Owners of Bonds of such Series. The Board may, in its sole discretion, determine whether or not Bonds of any particular Series or maturity would be affected by any modification or amendment made in accordance with the foregoing powers of amendment, provided however, that it first obtain a Bond Counsel's Opinion to such effect. Any such determination shall be binding and conclusive on all Owners of Bonds.

Section 10.03. Consent of Owners. (a) A copy of any Supplemental Resolution making a modification or amendment which is not permitted by the provisions of Section 10.01 hereof (or brief summary thereof or reference thereto), together with a request to Owners for their consent thereto, shall be mailed by the Board to any Owner of Bonds (including any Credit Provider) required to consent thereto by first class mail, postage prepaid. Such Supplemental Resolution shall not be effective unless and until there shall have been filed with the Board (a) the written consents of Owners of the percentages of Outstanding Bonds and consents of the Credit Provider, if any, specified in Section 10.02 hereof, and (b) a Bond Counsel's Opinion provided in Section 10.06 hereof.

(b) Any such consent shall be binding upon the Owner of the Bonds giving such consent and upon any subsequent Owner of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Owner thereof has notice thereof) unless such consent is

revoked in writing by the Owner of such Bonds giving such consent or a subsequent Owner thereof by filing such revocation with the Board, prior to the effective date of such Supplemental Resolution.

(c) At any time after the Owners of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution, such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Board, the Depository Bank and the Owners of all Bonds. Not more than ninety (90) days after the Owners of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution, notice, stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Board on a stated date, a copy of which is on file with the Board) has been consented to by the Owners of the required percentages of Bonds and has become effective as provided in this Section, shall be given to the Owners by the Board by mailing such notice to the Owners first class mail, postage prepaid and may be given, at the discretion of the Board, by contemporaneous publication of the same in an Authorized Newspaper (but failure to publish or give such notice shall not prevent such Supplemental Resolution from becoming effective and binding as provided in this Section). A record, consisting of the papers required or permitted by this Section to be filed with the Commission, shall be proof of the matters therein stated.

Section 10.04. Modifications by Unanimous Consent. The terms and provisions of this General Resolution and the rights and obligations of the Board and of the Owners of the Bonds hereunder may be modified or amended in any respect upon the adoption and filing by the Board of a Supplemental Resolution and the consent of the Owners of all the Bonds Outstanding, and that of any Credit Provider for such Bonds, such consent to be given as provided in Section 10.03 hereof, but no such modification or amendment shall change or modify any of the rights or obligations of the Commission without the written consent of the Commission thereto. No notice of any such modification or amendment to Owners either by mailing or publication shall be required.

Section 10.05. Exclusion of Bonds. Unless the Board is the Owner of all Bonds required to give consent to a Supplemental Resolution, Bonds owned or held by or for the account of the Board shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Article, and the Board shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article. At the time of any consent or other action taken under this Article, the Board shall furnish to the Commission a Certificate

of an Authorized Officer, upon which the Commission may rely, describing all Bonds to be so excluded.

Section 10.06. Bond Counsel's Opinion. No Supplemental Resolution shall be effective until there is filed with the Board a Bond Counsel's Opinion to the effect that the execution and delivery of such Supplemental Resolution is authorized or permitted under this General Resolution and the Act or the Refunding Act, and will not adversely affect the excludability from gross income of the recipients thereof of interest on the Tax-Exempt Bonds for federal income tax purposes.

Section 10.07. Notation on Bonds. Bonds delivered after the effective date of any action taken as provided in this Article may, bear a notation, by endorsement or otherwise in a form approved by the Board, as to such action. Upon any transfer or exchange of any Bond Outstanding at such effective date or upon demand of the Owner of any Bond Outstanding at such effective date and presentation of such Bond, the Registrar, at the direction of the Board, shall make suitable notation as to such action on such Bond or upon any Bond issued upon any such transfer or exchange. If the Board shall so determine, new Bonds modified to conform to such action in the opinion of the Board shall be prepared, executed and delivered, and upon demand of the Owner of any Bond Outstanding shall be exchanged, without cost to such Owner, upon surrender of such Outstanding Bond.

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ARTICLE XI

CONCERNING THE COMMISSION

Section 11.01. The Trust. By its certificate of acceptance delivered to the Board on the date of first delivery of the Bonds issued under this General Resolution, the Commission agrees to hold in trust, for the benefit of the Owners from time to time of the Bonds, all property conveyed or delivered to it under this General Resolution and all funds and accounts and the moneys or Permitted Investments held therein, and to act as Paying Agent and Registrar for the Bonds.

Section 11.02. Responsibility of the Commission. The statements of fact herein and in the Bonds contained shall be taken as the statements of the Board and the Commission does not assume any responsibility for the correctness of the same. The Commission makes no representations as to the validity or sufficiency of this General Resolution or of any Bonds or coupons issued hereunder or in respect of the security afforded by this General Resolution, and the Commission shall not incur any responsibility in respect thereof. The Commission shall not be under any responsibility or duty with respect to the issuance of the Bonds for value or the application of the proceeds thereof or the application of any moneys paid to the Board. The Commission shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own moneys, unless properly indemnified. The Commission shall not be liable in connection with the performance of its duties hereunder except for its own negligence or default.

Section 11.03. Evidence on Which Commission May Act. The Commission shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document believed by it to be genuine, and to have been signed or presented by the proper party or parties. The Commission may consult with counsel, who may be counsel to the Board, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith. Whenever the Commission shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, including payment of moneys out of any fund or account, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate signed by an Authorized Officer, and such Certificate shall be full warrant for any action taken or suffered in good faith thereon, but in its sole discretion the Commission may in lieu thereof

accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable. Neither the Commission nor any successor to its duties shall be liable to the Board, the Owners of any of the Bonds or any other person for any act or omission done or omitted to be done by the Commission in reliance upon any instruction, direction or certification received by the Commission pursuant to this General Resolution or for any act or omission done or omitted in good faith and without negligence or willful or reckless misconduct. Except as otherwise expressly provided herein, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Board to the Commission shall be sufficiently executed if executed in the name of the Board by an Authorized Officer.

Section 11.04. Compensation. The Board shall pay to the Commission from time to time reasonable compensation as shall be agreed to by the Board and the Commission for all services rendered under this General Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents and employees, incurred in and about the performance of its powers and duties under this General Resolution.

Section 11.05. Permitted Acts and Functions. The Commission may become the Owner of any Bonds, with the same rights it would have if it were not the Commission. The Commission may act as Depository for, and permit any of its officers to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this General Resolution, whether or not any such committee shall represent the Owners of a majority in Principal amount of the Bonds Outstanding.

Section 11.06. Resignation of Commission. The Commission may at any time resign and be discharged of the duties and obligations created by this General Resolution by giving not less than forty-five (45) days' written notice to the Board and publishing notice thereof specifying the date when such resignation shall take effect once in an Authorized Newspaper, but such resignation shall not take effect until the appointment of a successor organization to its duties pursuant to Section 11.08 hereof and the acceptance of such duties by such successor.

Section 11.07. Appointment of Paying Agent. The Commission may, with the consent of the Board, appoint one or more Paying Agents to perform any of the obligations and duties of the Paying Agent hereunder by a written instrument executed by the Paying Agent and the Commission under which such Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this General

Resolution and any additional duties or obligations imposed upon it by agreement and shall agree, particularly:

(a) To hold all sums held by it for the payment of the Principal of or interest on Bonds in trust for the benefit of the Owners of such Bonds until such sums shall be paid to such Owners of such Bonds or otherwise disposed of as herein provided;

(b) To keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by the Board, the Commission, and the Registrar at all reasonable times; and

(c) Upon the request of the Commission, to forthwith deliver to the Commission all sums so held in trust by the Paying Agent.

Section 11.08. Qualifications of Paying Agent. Any Paying Agent other than the Commission shall be a corporation or banking association duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital stock, surplus and undivided profits of at least \$25,000,000 or trust assets of not less than \$500,000,000 and authorized by law to perform all the duties imposed upon it by this General Resolution.

Section 11.09. Evidence of Signatures of Owners and Ownership of Bonds. (a) Any request, consent or other instrument which this General Resolution may require or permit to be signed and executed by the Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their duly authorized attorneys. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this General Resolution (except as otherwise herein expressly provided) if made in the manner set forth in paragraph (b) of this Section, but the Registrar may nevertheless in their sole discretion require further or other proof in any case where they deem the same desirable.

(b) The fact and date of the execution by any Owner or his attorney of such instrument may be proved by the Certificate, which need not be acknowledged or verified, of an officer of a bank or trust company, financial institution or other member of the National Association of Securities Dealers, Inc. satisfactory to the Board, or

of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Owner may be established without further proof if such instrument is signed by a person purporting to be the president or vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary.

(c) The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registration books of the Board maintained by the Registrar.

(d) Any request, consent or vote of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the Board and any Owner and their agents and their representatives, any of whom may make copies thereof.

Section 11.10. Appointment of Registrar. The Board shall appoint one or more Registrars to perform any of the obligations and duties of the Registrar hereunder by designating such Registrar in a Supplemental Resolution or a written instrument executed by the Board. Such Registrar shall signify its acceptance of the duties and obligations imposed upon it by this General Resolution and any additional duties or obligations imposed upon it by agreement.

Section 11.11. Books and Records. The Commission, Registrar and Paying Agent (if other than the Commission) shall make available for inspection by any Authorized Officer and any Credit Provider at all reasonable times, upon reasonable notice, reports, statements and other information relating to all moneys received and disbursed, all investments of such moneys and all funds and accounts established hereunder or by any Supplemental Resolution.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Evidence of Acts of Owners. Any request, direction, consent or other instrument provided hereby to be signed and executed by the Owners of any Bonds may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such request, direction or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes hereof and shall be conclusive in favor of the Board, with regard to any action taken by them, or either of them, under such request or other instrument, namely:

(A) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments in such jurisdiction, that the person signing such writing acknowledged before him the execution thereof, or by the affidavit of a witness of such execution; and

(B) The ownership of all Bonds shall be proved by the register of such Bonds.

Nothing in this Section shall be construed as limiting the Board to the proof herein specified, it being intended that the Board may accept any other evidence of the matters herein stated which it may deem sufficient.

Any action taken or suffered by the Board pursuant to any provision hereof, upon the request or with the assent of any person who at the time is the Owner of any Bond or Bonds shall be conclusive and binding upon all future Owners of the same Bond or Bonds.

Section 12.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this General Resolution or the Bonds is intended or shall be construed to give to any person other than the parties hereto, and the Owners of the Bonds any legal or equitable right, remedy or claim under or in respect to this General Resolution or any covenants, conditions and provisions herein contained; this General Resolution and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Owners of the Bonds as herein provided.

Section 12.03. Severability. If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof, or the Bonds issued pursuant hereto, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

Section 12.04. Holidays. When the date on which Principal of Redemption Price, or interest on any Bond is due and payable is a day other than a Business Day, payment may be made on Bonds on the next ensuing Business day with effect as though payment were made on the due date, and, if such payment is made, no interest shall accrue from and after such due date. When any other action is provided herein to be done on a day named or within a time period named, and the day or the last day of the period falls on a day other than a Business Day, it may be performed on the next ensuing Business Day with effect as though performed on the appointed day or within the specified period.

Section 12.05. Governing Law. This General Resolution and the Bonds are contracts made under the laws of the State of West Virginia and shall be governed and construed in accordance with such laws.

Section 12.06. Notices. A. Unless otherwise expressly specified or permitted by the terms hereof, all notices, consents or other communications required or permitted hereunder shall be deemed sufficiently given or served if given in writing, mailed by registered or certified mail, postage prepaid or by overnight courier service and addressed as follows:

(i) If to the Board, addressed to:

Board of Directors of the State  
College System  
Central Office, State College and  
University  
Systems of West Virginia  
1018 Kanawha Boulevard, East  
Charleston, West Virginia 25301  
Attention: Chancellor - Board of  
Directors of State College System

(ii) If to the Commission, addressed to:

West Virginia Municipal Bond  
Commission  
1800 Washington Street, East  
Building 3, Suite 337  
Charleston, West Virginia 25305  
Attention: Executive Director

(iii) If to the Treasurer, addressed to:

Treasury of the State of West Virginia  
State Capitol Complex, Suite 145  
Charleston, West Virginia 25305

(iv) If to the Owner of a Bond, addressed to such Owner at the address shown on the books of the Registrar kept pursuant hereto.

B. The Board, the Commission and the Treasurer may from time to time by notice in writing to the others designate a different address or addresses for notice hereunder.

C. In connection with any consent required to be obtained from any Owner of Bonds, the Board shall establish a record date to determine the ownership of any Bonds for purposes of obtaining such consent, and shall give the Depository at least 15 calendar days advance notice of the record date so established.

D. Any notice that is required to be given to Owners of Bonds or to the Commission pursuant to this General Resolution or any Supplemental Resolution shall also be provided to any Credit Provider.

Section 12.07. Counterparts. This General Resolution may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

[Signature Page of State College System General Resolution]

Section 12.08. Immunity of Individuals. No recourse shall be had for the payment of the Principal of, Redemption Price or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement herein against any past, present or future officer, member, employee or agent of the Board, whether directly or indirectly and all such liability of any such individual as such is hereby expressly waived and released as a condition of and

in consideration for the execution hereof and the issuance of the Bonds.

Section 12.09. Conflicting Provisions. All resolutions or parts of resolutions or other proceedings of the Board in conflict herewith shall be and the same are repealed insofar as such conflict exists.

Section 12.10. Effective Date. This General Resolution shall take effect immediately.

Adopted this 9th day of September, 1992.

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Chairman, Board of Directors of the  
State College System

11/25/92  
SCJ.A8  
86555/92001

CERTIFICATION

The undersigned, being the duly qualified, elected and acting Secretary of the Board of Directors of the State College System, does hereby certify that the foregoing General Resolution was duly adopted by the members of the Board of Directors of the State College System, at a regular meeting duly held, pursuant to proper notice thereof, on September 9, 1992, at Charleston, West Virginia, a quorum being present and acting throughout, and which General Resolution has not been modified, amended or revoked and is a true, correct and complete copy thereof as witness my hand and the seal of the Board of Directors of the State College System, this 2nd day of December, 1992.

[SEAL]

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Secretary, Board of Directors of the  
State College System

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**FOURTH SUPPLEMENTAL RESOLUTION**

**Authorizing**

**STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
Revenue Refunding Bonds  
(State College Facilities)**

Adopted: March 17, 2003

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STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
Revenue Refunding Bonds  
(State College Facilities)

FOURTH SUPPLEMENTAL RESOLUTION

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STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
Revenue Refunding Bonds  
(State College Facilities)

FOURTH SUPPLEMENTAL RESOLUTION OF THE  
HIGHER EDUCATION POLICY COMMISSION

SUPPLEMENTAL RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$40,000,000 AGGREGATE PRINCIPAL AMOUNT OF THE COMMISSION'S REVENUE REFUNDING BONDS (STATE COLLEGE FACILITIES); AND SUPPLEMENTING THE GENERAL RESOLUTION OF THE COMMISSION ADOPTED SEPTEMBER 9, 1992.

WHEREAS, the Board of Directors of the State College System (the "Board") on September 9, 1992, adopted a General Resolution (the "General Resolution") pursuant to which it is authorized to issue one or more series of its revenue bonds (the "Bonds");

WHEREAS, the Higher Education Policy Commission (the "Commission") is an agency of the State of West Virginia (the "State"), is the successor to the Board and is empowered and authorized to issue bonds pursuant to the Act, among other things, in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in Section 5 of the Act, to refund the Bonds To Be Refunded;

WHEREAS, all capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the General Resolution;

WHEREAS, the General Resolution establishes the basic provisions regarding the structure of and security for all Bonds to be issued thereunder, and further provides that each Series of Bonds to be issued from time to time is to be individually authorized by a Supplemental Resolution setting forth the principal amount of such Series of Bonds, the terms and provisions of such Series of Bonds, provisions required by any Credit Provider for such Series of Bonds and any other provisions which may be specific to such Series of Bonds;

WHEREAS, pursuant to the First Supplemental Resolution (the "First Supplemental Resolution") adopted by the Board on September 9, 1992, the Board issued its first Series of Bonds under the General Resolution, being its \$46,825,000 aggregate principal amount State College System Revenue Refunding Bonds, Series 1992, dated November 1, 1992 (the "1992 Bonds");

WHEREAS, pursuant to the Second Supplemental Resolution (the "Second Supplemental Resolution") adopted by the Board on January 15, 1993, the Board made a minor

amendment to the First Supplemental Resolution, ratifying a change of the date of the 1992 Bonds from September 1, 1992 to November 1, 1992;

WHEREAS, pursuant to the Third Supplemental Resolution (the "Third Supplemental Resolution") adopted by the Board on October 21, 1997, the Board issued its second Series of Bonds under the General Resolution, being its \$9,920,000 aggregate principal amount State College System Revenue Bonds (College Improvement Projects) 1997 Series A, dated November 20, 1997 (collectively with the 1992 Bonds, the "Prior Bonds");

WHEREAS, as of the date of adoption of this Fourth Supplemental Resolution by the Commission, no Bonds other than the Prior Bonds have been issued by the Commission;

WHEREAS, pursuant to the Act, the Commission is authorized to issue certain Additional Bonds to refund all or a portion of the Prior Bonds (the "Bonds To Be Refunded") and Costs of Issuance and otherwise to carry out its purposes under the Act;

WHEREAS, the Commission deems it desirable and in keeping with its purposes under the Act, to issue its Revenue Refunding Bonds (State College Facilities) (the "2003 Bonds"), for the purposes of refunding the Bonds To Be Refunded and paying Costs of Issuance of the 2003 Bonds;

WHEREAS, all of the requirements set forth in Section 2.03 of the General Resolution for issuance of Bonds and in Section 2.04 of the General Resolution for issuance of Additional Bonds in the manner and in the amount set forth herein have been met or will be met prior to the date of issuance and delivery of the 2003 Bonds;

WHEREAS, the Commission therefore wishes to take all necessary actions to issue the 2003 Bonds for the purposes set forth herein;

WHEREAS, there will be presented to the Chairman or Vice Chairman, the following documents (the "Bond Documents"), to be executed in connection with the issuance and sale of the 2003 Bonds;

(1) A Bond Trust Indenture between the Commission and the Trustee (the "Trust Indenture") in which various provisions relating to the 2003 Bonds are set forth; and

(2) A Bond Purchase Agreement to be dated the date of acceptance thereof by the Chairman or Vice Chairman of the Commission, by and between Salomon Smith Barney, Inc., Ferris, Baker Watts, Inc., and Crews & Associates, Inc., as representatives of the original purchasers of the 2003 Bonds (collectively, the "Original Purchasers") and the Commission, pursuant to which the 2003 Bonds are proposed to be purchased; and

(3) A Continuing Disclosure Agreement (as defined herein), to be dated the Closing Date; and

(4) A Preliminary Official Statement (the "Preliminary Official Statement"), relating to the 2003 Bonds (which when executed in final form as provided in Section 6.02 hereof, the "Official Statement"); and

(5) A Tax Certificate (the "Tax Certificate"), to be dated the Closing Date;  
and

(6) An Insurance Commitment; and

(7) A Rule 15c-2-12 Certificate; and

(8) An Escrow Agreement; and

(9) Any other documents deemed necessary or desirable to aid or effectuate the issuance and sale of the 2003 Bonds, including documents relating to hedge transactions and investment of the proceeds.

WHEREAS, the Commission desires to take all steps necessary for the issuance of the 2003 Bonds and the refunding of the Bonds To Be Refunded at the earliest practicable date;

WHEREAS, the Commission wishes to delegate to the Chairman or Vice Chairman, the authority to approve which of the Prior Bonds are to be refunded, the final terms of the 2003 Bonds, including the exact principal amount, interest rates, redemption provisions, maturities, purchase price and other terms of the 2003 Bonds, the terms and provisions relating specifically to a Bond Insurance Policy and the final terms and provisions of the Bond Documents and other agreements relating to the 2003 Bonds, without the requirement of further official action by the Commission; and

WHEREAS, Section 10.01 of the General Resolution provides that the Commission may adopt, execute and deliver a Supplemental Resolution without notice to or consent of the Owners of Bonds to modify, alter, amend or supplement the General Resolution in any manner which in the opinion of Bond Counsel does not materially adversely affect the interest of the Owners of the Bonds or any Credit Provider;

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

#### ARTICLE I

##### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION; DESIGNATION OF AUTHORIZED OFFICERS

Section 1.01. Definitions. All capitalized terms and definitions contained in the General Resolution shall, unless defined differently herein, have the same meanings herein, and in addition to the words and terms defined elsewhere in this Fourth Supplemental Resolution,

the following words, terms or phrases shall have the following respective meanings all unless the context clearly indicates a different meaning:

“Authorized Officer” means the person designated pursuant to Section 1.03 hereof.

“Bond Documents” means the documents described in the 13<sup>th</sup> recital hereto.

“Bond Insurance Policy” means the policy of municipal bond insurance insuring the payment when due of the principal of and interest on the 2003 Bonds as provided therein.

“Bond Insurer” means the insurance carrier which issues the Bond Insurance Policy.

“Bond Purchase Agreement” means the Bond Purchase Agreement between the Commission and the Original Purchasers pertaining to the sale of the 2003 Bonds.

“Bond Year” means, with respect to the 2003 Bonds, the period commencing July 1 in each year and ending on June 30 of each subsequent calendar year during the term of the 2003 Bonds, except that the first Bond Year shall commence on the Closing Date and end on June 30, 2003 (unless a different period is permitted or required by the Code).

“Bonds” means collectively, the 2003 Bonds, the Prior Bonds other than the Bonds To Be Refunded, and any other Additional Bonds or Refunding Bonds hereafter issued pursuant to the General Resolution.

“Certificate of Determination” means the certificate executed by the Chairman or Vice Chairman setting forth the final terms and provisions of the Bonds, the Bond Purchase Agreement and the other Bond Documents as provided in Section 2.03 hereof.

“Closing Date” means the date upon which the 2003 Bonds are delivered to the Original Purchasers upon payment of the purchase price set forth in the Bond Purchase Agreement.

“Continuing Disclosure Agreement” means a Continuing Disclosure Agreement between the Commission and the Original Purchasers, to be dated the Closing Date.

“Event of Default” means any one or more of those events set forth in Section 9.01 of the General Resolution.

“Escrow Trustee” means that entity designated as escrow trustee for the 2003 Bonds in the Certificate of Determination.

“Fourth Supplemental Resolution” means this Fourth Supplemental Resolution as it may be amended or supplemented, and includes all exhibits and schedules thereto.

“2003 Bonds” means the Commission's Revenue Refunding Bonds (State College Facilities), in such aggregate principal amount (not to exceed \$40,000,000) as shall be set forth in the Certificate of Determination.

“2003 Bonds (State College Facilities) Escrow Fund” means the fund by that name established pursuant to Section 4.01 hereof.

“2003 Bonds (State College Facilities) Costs of Issuance Fund” means the fund by that name established pursuant to Section 4.01 hereof.

“2003 Bonds (State College Facilities) Interest Account” means the account by that name established in the 2003 Bonds (State College Facilities) Fund pursuant to Section 4.01 hereof.

“2003 Bonds (State College Facilities) Principal Account” means the account by that name established in the 2003 Bonds (State College Facilities) Bond Fund pursuant to Section 4.01 hereof.

“2003 Bonds (State College Facilities) Redemption Account” means the account by that name established pursuant to Section 4.01 hereof.

“Official Statement” means the Official Statement to be dated the date of execution of the Bond Purchase Agreement, prepared and distributed in connection with the sale of the 2003 Bonds and approved by the Commission.

“Paying Agent” means such banking institution with offices in West Virginia or its successors, designated as a paying agency or place of payment for the 2003 Bonds in the Certificate of Determination.

“Preliminary Official Statement” means the Preliminary Official Statement to be prepared and distributed in connection with the sale of the 2003 Bonds.

“Record Date” means 15 days before the interest payment dates of April 1 and October 1.

“Registrar” means such banking institution with offices in West Virginia or its successors, designated as registrar for the 2003 Bonds in the Certificate of Determination.

“Representation Letter” means the DTC Blanket Letter of Representations in form satisfactory to DTC, previously delivered to DTC in connection with the issuance and delivery of the 2003 Bonds.

“Resolution” means (unless the context clearly indicates otherwise) collectively, the General Resolution and this Fourth Supplemental Resolution as they may be amended or supplemented.

“Service Provider” means a party described in clause (x) of Section 2.03 hereof.

“Tax Certificate” means the Tax Certificate of the Commission to be dated as of the Closing Date, as it may be amended or supplemented.

“Trustee” means such banking institution with offices in West Virginia or its successors, designated as trustee for the 2003 Bonds in the Certificate of Determination.

Section 1.02. Interpretation. A. Any reference herein to the Commission, or any officer thereof shall include those succeeding to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

B. Unless the context otherwise indicates, words importing the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine and feminine gender.

C. Any terms not defined herein but defined in the General Resolution, shall have the same meanings herein.

D. Headings or articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

E. Words importing the redemption of a 2003 Bonds or the calling of a 2003 Bonds for redemption do not mean or include the payment of a 2003 Bonds at its stated maturity or the purchase of a 2003 Bonds.

Section 1.03. Designation of Authorized Officers. The Commission hereby designates the Chancellor and the Director of Finance and Facilities as Authorized Officers of the Commission with respect to the 2003 Bonds. Each of such Authorized Officers shall file a specimen of his signature with the Trustee.

Section 1.04. Amendments to General Resolution.

(a) Section 7.01 of the General Resolution is hereby amended to read as follows:

Section 7.01. Creation of Funds. A. There are hereby created by the Commission and ordered established the following funds to be held by the Municipal Bond Commission or by a Trustee as determined by the Commission:

(a) A Bond Fund with respect to each Series of Bonds;

(b) A Debt Service Reserve Fund with respect to each Series of Bonds for which the Debt Service Reserve Requirement is greater than zero; and

(c) For any Series of Bonds issued in whole or in part as Variable Rate Bonds, a Purchase Fund if so specified by a Related Supplemental Resolution.

B. There are hereby created by the Commission and ordered established the following funds to be held by the State Treasury or by a Trustee as determined by the Board;

- (a) A Bond Proceeds Fund with respect to each Series of Bonds; and
- (b) A Cost of Issuance Fund for each Series of Bonds.

C. In addition to the foregoing funds, the Commission may establish such other funds and accounts as it may deem appropriate for any particular Series of Bonds by provision therefor in the Related Supplemental Resolution.

(d) In each instance where a report or certificate is required by the terms of the General Resolution to be filed with either the Municipal Bond Commission or the State Treasurer, a copy of such report or certificate shall also be filed with the Trustee for any Series of Bonds Outstanding.

(e) Each Trustee for a Series of Bonds shall perform all functions and responsibilities of the Municipal Bond Commission or the State Treasurer, as the case may be, imposed thereon by the General Resolution, with respect to such Series of Bonds.

## ARTICLE II

### AUTHORIZATION AND TERMS OF 2003 BONDS

Section 2.01. Authorization of 2003 Bonds. In order to refund the Bonds To Be Refunded and to pay Costs of Issuance thereof, the Commission hereby authorizes the issuance of one or more series of the 2003 Bonds, each of which shall constitute a "Series of Bonds" and "Additional Bonds" as such terms are defined in the General Resolution, and shall be issued and sold as directed by the Commission in accordance herewith.

Section 2.02. Terms. The 2003 Bonds shall be issued in fully registered form as herein provided, in denominations of \$5,000 and integral multiples thereof, in an aggregate principal amount not to exceed \$40,000,000. The 2003 Bonds shall be numbered from R-1 upward in order of maturity. Interest accruing on the 2003 Bonds on and prior to the maturity date thereof shall be payable by check or draft mailed by the Paying Agent to the Registered Owner thereof as of the applicable Record Date (15 days before the interest payment dates of April 1 and October 1) at the address of such Registered Owner as it appears on the registration books of the Commission maintained by the Registrar, or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to the bank account number on file with the Paying Agent on or prior to the applicable Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal corporate trust office of the Paying Agent in Charleston, West Virginia.

Section 2.03. Certificate of Determination. The Chairman or Vice Chairman shall have the power and authority to execute and deliver the Certificate of Determination, which may include, without limitation, provisions (i) fixing the aggregate principal amount of 2003 Bonds to be issued, not to exceed \$40,000,000, (ii) fixing the maturity schedule for the 2003 Bonds, including the amounts of serial bonds and term bonds, such maturities to be not after April 1, 2027, (iii) prescribing the modes of determining the interest rates or yields for such 2003 Bonds, such rates or yields not to exceed an average interest cost of six percent (6%) per annum, (iv) fixing the amounts and times of mandatory redemption for the 2003 Bonds, (v) fixing optional redemption provisions for the 2003 Bonds, including times and redemption prices (not to exceed 102% of the principal amount), (vi) fixing the purchase price for the 2003 Bonds, which may include an underwriting and an original issue discount or premium, (vii) dating such 2003 Bonds, (viii) determining whether the 2003 Bonds shall be issued in one or more series and assigning a designation to each such series, (ix) designating the provider of the Bond Insurance Policy, provided that the cost thereof does not exceed one percent (1%) of the principal amount of the 2003 Bonds, and (x) designating a remarketing agent, a tender agent, an auction agent, a liquidity provider, a credit provider and the provider of other services which may be deemed by such officer as necessary or desirable to support the 2003 Bonds (each a "Service Provider"), (xi) designating the Bonds To Be Refunded, (xii) designating the Escrow Trustee, and (xiii) designating the Trustee, Registrar and Paying Agent for the 2003 Bonds.

Section 2.04. Book Entry System for 2003 Bonds.

(a) Notwithstanding the foregoing provisions of this Article II, the 2003 Bonds shall initially be issued in the form of one fully-registered bond for the aggregate principal amount of the 2003 Bonds of each maturity, which 2003 Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Except as provided in paragraph (g) below, all of the 2003 Bonds shall be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC; provided that if DTC shall request that the 2003 Bonds be registered in the name of a different nominee, the Registrar shall exchange all or any portion of the 2003 Bonds for an equal aggregate principal amount of 2003 Bonds registered in the name of such nominee or nominees of DTC. No person other than DTC or its nominee shall be entitled to receive from the Issuer or the Registrar either a 2003 Bonds or any other evidence of ownership of the 2003 Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the 2003 Bonds on the registration books maintained by the Registrar, in connection with discontinuing the book entry system as provided in paragraph (g) below or otherwise.

(b) So long as the 2003 Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the Principal or Redemption Price of or interest on such 2003 Bonds shall be made to DTC or its nominee in Federal funds on the dates provided for such payments under this Resolution or as set forth in the 2003 Bonds. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Issuer or the Registrar with respect to the Principal or Redemption Price of or interest on the 2003 Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the 2003 Bonds Outstanding of any maturity, the Registrar shall not require surrender by DTC or its nominee of the 2003 Bonds so redeemed, but DTC (or its nominee) may retain such 2003 Bonds and make an appropriate notation on the 2003 Bonds certificate as to the amount of such partial redemption; provided that DTC shall deliver to the Registrar, upon request, a written confirmation of such partial redemption and thereafter the records maintained by the Registrar shall be conclusive as to the amount of the 2003 Bonds of such maturity which have been redeemed.

(c) The Issuer and the Registrar may treat DTC (or its nominee) as the sole and exclusive Owner of the 2003 Bonds registered in its name for the purposes of payment of the Principal or Redemption Price of or interest on the 2003 Bonds, selecting the 2003 Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Resolution, registering the transfer of 2003 Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Issuer nor the Registrar shall be affected by any notice to the contrary. Neither the Issuer nor the Registrar shall have any responsibility or obligation to any participant in DTC, any person claiming a beneficial ownership interest in the 2003 Bonds under or through DTC or any such participant, or any other person which is not shown on the registration books of the Registrar as being a Bondholder, with respect to either: (1) the 2003 Bonds; or (2) the accuracy of any records maintained by DTC or any such participant; or (3) the payment by DTC or any such participant of any amount in respect of the Principal or Redemption Price of or interest on the 2003 Bonds; or (4) any notice which is permitted or required to be given to Bondholders under this Resolution; or (5) the selection by DTC or any such participant of any person to receive

payment in the event of a partial redemption of the 2003 Bonds; or (6) any consent given or other action taken by DTC as Bondholder.

(d) So long as the 2003 Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all notices required or permitted to be given to the Bondholders under this Resolution shall be given to DTC as provided in the Representation Letter.

(e) In connection with any notice or other communication to be provided to Bondholders pursuant to this Resolution by the Issuer or the Registrar with respect to any consent or other action to be taken by Bondholders, DTC shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action, provided that the Issuer or the Registrar may establish a special record date for such consent or other action. The Issuer or the Registrar shall give DTC notice of such special record date not less than 15 calendar days in advance of such special record date to the extent possible.

(f) At or prior to settlement for the 2003 Bonds, the Issuer and the Registrar shall execute or signify their approval of the Representation Letter. Any successor Registrar shall, in its written acceptance of its duties under this Resolution, agree to take any actions necessary from time to time to comply with the requirements of the Representation Letter.

(g) The book-entry system for registration of the ownership of the 2003 Bonds may be discontinued at any time if either: (1) DTC determines to resign as securities depository for the 2003 Bonds; or (2) the Issuer determines that continuation of the system of book-entry transfers through DTC (or through a successor securities depository) is not in the best interests of the Issuer. In either of such events (unless in the case described in clause (2) above, the Issuer appoints a successor securities depository) the 2003 Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the Issuer or the Registrar for the accuracy of such designation. Whenever DTC requests the Issuer and the Registrar to do so, the Issuer and the Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the 2003 Bonds.

Section 2.05. Form of 2003 Bonds. The definitive 2003 Bonds shall be in substantially the form set forth in Exhibit A, attached hereto and incorporated by reference herein, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such 2003 Bonds on behalf of the Commission. Execution thereof by such officers shall constitute conclusive evidence of such approval.

Section 2.06. 2003 Bonds on Parity with Prior Bonds. The 2003 Bonds shall be on a parity with the Prior Bonds with respect to sources of and security for payment and in all other respects.

Section 2.07. Conditions Precedent to Delivery of 2003 Bonds. The 2003 Bonds shall be delivered upon receipt by the Registrar of the following:

A. A copy of the General Resolution and the Fourth Supplemental Resolution certified by the Secretary of the Commission;

B. A copy of the Certificate of Determination;

C. A Bond Counsel's Opinion to the effect that (i) this Fourth Supplemental Resolution has been duly and lawfully adopted and is in full force and effect; (ii) the General Resolution has been duly and lawfully adopted and is valid and binding upon, and enforceable against, the Commission (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); (iii) the General Resolution creates the valid pledge which it purports to create of the Revenues, and moneys and securities on deposit in any of the Funds established thereunder (other than a Purchase Fund, if any) subject to the application thereof to the purposes and on the conditions permitted by the General Resolution; and (iv) upon the execution and delivery thereof, the 2003 Bonds will have been duly and validly authorized and issued in accordance with the General Resolution;

D. A written order as to the authentication, registration and delivery of the 2003 Bonds and the application of the proceeds thereof, signed by an Authorized Officer; and

E. A Certificate of the Commission to the effect that:

(i) all payments into the respective funds and accounts provided for in the General Resolution and any Related Supplemental Resolution respecting Bonds theretofore issued and then Outstanding have been made in full to the date of issuance and delivery of the 2003 Bonds and no Event of Default under the General Resolution or any Related Supplemental Resolution is now existing; and

(ii) the Revenues of the type set forth in subsection (i) of the definition of "Revenues" in Section 1.02 of the General Resolution, collected by the Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds shall have not been not less than 120% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds) or;

(iii) (a) the Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds, plus Projected Revenues (as defined below) shall have been not less than 120% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); (b) the Revenues of the type set forth in subsection (i) of the definition "Revenues" in Section 1.02 of the General Resolution collected by the Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds shall have

been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); and (c) Projected Revenues have not been greater than 20% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or which were not pledged under the General Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of Additional Bonds.

F. An executed copy of the Trust Indenture.

### ARTICLE III

#### PROVISIONS RELATING TO THE 2003 BONDS REQUIRED BY BOND INSURER

Section 3.01. Provisions Required by Bond Insurer. All provisions and terms required by the Bond Insurer for the 2003 Bonds shall be set forth separately in a schedule (the "Insurance Schedule") to the Certificate of Determination. In the event any provision of the Certificate of Determination, including such Insurance Schedule , conflicts with any terms and provisions of the Resolution, the terms and provisions of the Certificate of Determination, including such schedule, shall control.

## ARTICLE IV

### FUNDS AND ACCOUNTS; APPLICATION OF 2003 BOND PROCEEDS

Section 4.01. Funds and Accounts. (A) There are hereby created by the Commission and ordered established with the Trustee the following funds and accounts in connection with the 2003 Bonds;

- (i) 2003 Bonds (State College Facilities) Bond Fund, and therein;
  - (a) 2003 Bonds (State College Facilities) Interest Account; and
  - (b) 2003 Bonds (State College Facilities) Principal Account; and
  - (c) 2003 Bonds (State College Facilities) Redemption Account.

(B) There are hereby created by the Commission and ordered established with the Trustee the following funds in connection with the 2003 Bonds;

- (i) 2003 Bonds (State College Facilities) Proceeds Fund; and
- (ii) 2003 Bonds (State College Facilities) Escrow Fund; and
- (iii) 2003 Bonds (State College Facilities) Costs of Issuance Fund.

Section 4.02. Application of 2003 Bond Proceeds. The net proceeds of the sale of the 2003 Bonds shall initially be deposited in the 2003 Bonds (State College Facilities) Proceeds Fund to be held by the Trustee. Thereafter, such proceeds or portions thereof shall be applied by the Trustee as follows:

- (i) All amounts, if any, paid as accrued interest on the 2003 Bonds from their date to the date of delivery of the 2003 Bonds shall be deposited in the 2003 Bonds (State College Facilities) Interest Account;
- (ii) A sum equal to the Costs of Issuance of the 2003 Bonds shall be deposited in the 2003 Bonds (State College Facilities) Costs of Issuance Fund;
- (iii) A sum equal to the premium for purchase of the Bond Insurance Policy, if any, shall be paid directly to the Insurer; and
- (iv) The balance of the proceeds of the 2003 Bonds shall be deposited in the 2003 Bonds (State College Facilities) Escrow Fund (which Fund may contain one or more subaccounts).

Section 4.03. Flow of Funds. So long as any 2003 Bonds are Outstanding, amounts deposited and to be deposited in the funds and accounts established by Section 4.01 hereof shall be applied by the Trustee in the manner and order of priority as set forth herein and in Article VII of the General Resolution.

Section 4.04. Disbursements. The proceeds of the 2003 Bonds deposited in the 2003 Bonds (State College Facilities) Escrow Fund shall be disbursed immediately to the Escrow Trustee. The proceeds of the 2003 Bonds deposited in the 2003 Bonds (State College Facilities) Costs of Issuance Fund with the Trustee shall be disbursed to the Escrow Trustee solely to pay the Costs of Issuance of the 2003 Bonds. The funds in the 2003 Bonds (State College Facilities) Cost of Issuance Fund shall be disbursed upon requisition by an Authorized Officer. Any funds remaining in the 2003 Bonds (State College Facilities) Costs of Issuance Fund 180 days after the initial issuance of the 2003 Bonds shall be transferred to the 2003 Bonds (State College Facilities) Optional Redemption Interest Account.

Section 4.05. Arbitrage Covenant. Neither the Trustee nor the Commission shall use or direct or permit the use of any moneys of the Commission in its possession or control in any manner which would cause any 2003 Bonds to be an "arbitrage bond" within the meaning of such term in Sections 103 and 148 of the Code.

Section 4.06. Tax Certificate. Notwithstanding any provision of the Resolution, the Commission shall observe its covenants, representations and agreements contained in the Tax Certificate. In the event any provision of the Resolution conflicts with any provision of the Tax Certificate, the provisions of the Tax Certificate shall govern.

## ARTICLE V

### GENERAL COVENANTS OF THE COMMISSION

Section 5.01. General. Except to the extent amended or modified by Section 1.03 hereof, the covenants contained in Article VI of the General Resolution are hereby continued, approved, ratified and confirmed, shall apply fully to the 2003 Bonds, and are incorporated herein by reference as a part hereof.

Section 5.02. Covenants. All covenants, stipulations, obligations and agreements of the Commission contained herein and contained in the Resolution shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the Commission to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Commission and its successors from time to time and upon any Commission or body to which any powers or duties, affecting such covenants, stipulations, obligations and agreements, shall be transferred by or in accordance with law. Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon the Commission or the officials thereof by the provisions hereof and by the Resolution shall be exercised or performed by the Commission or by such officers, Commission or body as may be required or permitted by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the 2003 Bonds or the Bond Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, agent or employee of the Commission in his or her individual capacity, and neither the member of the Commission nor any officer executing the 2003 Bonds shall be liable personally on the 2003 Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

## ARTICLE VI

### APPROVAL OF DOCUMENTS AND APPOINTMENT OF FIDUCIARIES

Section 6.01. Approval of Bond Documents. The Chairman or Vice Chairman is authorized, for and on behalf of Commission, to approve the final terms of the 2003 Bonds within the financing parameters established by Section 2.03 of this Resolution, and to negotiate, execute and deliver all documentation related to the issuance of the 2003 Bonds, including without limitation the Bond Documents, bond insurance documentation, any agreement with any Service Provider, any interest and other rate exchange agreements, interest or other rate swap transactions, basis swap transactions, forward rate transactions, bond options, interest rate options, cap transactions, floor transactions, collar transactions, investment agreements, guaranteed investment contracts, debt service deposit agreements, float agreements, any other similar transactions or agreements (including without limitation any option with respect to any of the foregoing) or any combination of the foregoing upon the terms and conditions as such officers may approve, such approval to be conclusively evidenced by the execution of such documents by any of such officers.

Section 6.02. Approval of Distribution of Preliminary Official Statement and Official Statement. The distribution of the Preliminary Official Statement is hereby approved. The Chairman, Vice Chairman or the Secretary is hereby authorized and directed to execute and deliver a final Official Statement on behalf of the Commission, which shall be in substantially the form of the preliminary official statement with such terms and conditions as may be required to reflect the terms of the sale of the Bonds and as the Chairman, Vice Chairman or Secretary, as the case may be, may approve. The execution of the Official Statement by the Chairman, Vice Chairman or Secretary, as the case may be, shall be conclusive evidence of such approval. Copies of the Official Statement are hereby authorized to be prepared and furnished to the Original Purchasers for distribution. The distribution by the Original Purchasers of the Preliminary Official Statement (which is a "deemed final" official statement in accordance with SEC Rule 15c2-12), substantially in the form submitted to this meeting is hereby ratified and approved.

Section 6.03. Appointment of Fiduciaries. The Certificate of Determination shall appoint and designate the Trustee, Registrar and Paying Agent for the 2003 Bonds.

Section 6.04. Continuing Disclosure Agreement. So long as any of the 2003 Bonds remain Outstanding, the Commission shall provide certain annual financial information and material events notices regarding the Commission as described in paragraph (b)(5)(i) of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission. The Issuer authorizes and directs the Director of Finance and Facilities to take all actions with respect to this undertaking as prescribed by the Continuing Disclosure Agreement.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. General Resolution. This Fourth Supplemental Resolution is supplemental to the General Resolution and all provisions of said General Resolution, unless clearly inapplicable or altered hereby, shall apply to the 2003 Bonds, this Fourth Supplemental Resolution and matters relating thereto as if set forth verbatim herein. In the event of any conflict between the General Resolution and this Fourth Supplemental Resolution, this Fourth Supplemental Resolution shall control. This Fourth Supplemental Resolution, the General Resolution, the Bond Indenture and the Certificate of Determination, to the extent applicable, shall and must be read as a single document and shall supersede all prior resolutions, orders and understandings, both written and oral, by the Commission, with respect to the subject matter hereof.

Section 7.02. Incidental Action. The execution and delivery of the 2003 Bonds and the execution, delivery and due performance of the Bond Documents and the Official Statement are hereby in all respects approved, authorized, ratified and confirmed including all acts heretofore taken in connection with the issuance of the 2003 Bonds, and it is hereby ordered that the Chairman, Vice Chairman, Secretary and other members and officers of the Commission execute and deliver such other documents, certificates, agreements and instruments, and take such other Action as may be required or desirable to carry out the purposes of this Fourth Supplemental Resolution, the 2003 Bonds and the aforesaid instruments, including, but limited to, execution and delivery of any commitment for bond insurance.

Section 7.03. Severability. If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof, or the 2003 Bonds issued pursuant hereto, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

Section 7.04. Governing Law. This Fourth Supplemental Resolution and the 2003 Bonds are contracts made under the laws of the State of West Virginia and shall be governed and construed in accordance with such laws.

Section 7.05. Notices. (A) Unless otherwise expressly specified or permitted by the terms hereof, all notices, consents or other communications required or permitted hereunder shall, be deemed sufficiently given or served if given in writing, mailed by registered or certified mail, postage prepaid or by overnight courier service and addressed as follows:

- (i) IF TO THE COMMISSION, ADDRESSED TO:

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East  
Charleston, West Virginia 25301  
Attention: Director of Finance and Facilities

- (ii) IF TO THE TRUSTEE, REGISTRAR OR PAYING AGENT  
ADDRESSED TO: As it may appear in the Certificate of  
Determination
  
- (iii) IF TO THE OWNER OF A2003 BOND, ADDRESSED TO:  
Such Holder at the address shown  
on the books of the Registrar kept pursuant hereto.
  
- (iv) IF TO THE ORIGINAL PURCHASERS, ADDRESSED TO:  
  
Salomon Smith Barney, Inc.  
500 Lee Street, East  
Suite 300  
Charleston, WV 25301  
  
Ferris, Baker Watts, Inc.  
100 Laidley Tower  
Charleston, WV 25301  
  
Crews & Associates, Inc.  
300 Summers Street, Suite 930  
Charleston, WV 25301
  
- (v) IF TO BOND INSURER, ADDRESSED TO: As its address may  
appear in the Bond Insurance Policy

(B) The Commission, the Trustee, the Registrar, the Paying Agent, the Original Purchasers or the Bond Insurer may from time to time by notice in writing to the others designate a different address or addresses for notice hereunder.

(C) In connection with any consent required to be obtained from any Owner of 2003 Bonds, the Commission shall establish a record date to determine the ownership of any 2003 Bonds for purposes of obtaining such consent, and shall give Depository Trust Company at least 15 calendar days advance notice of the record date so established.

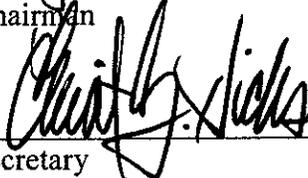
(D) Any notice required to be given by the Commission pursuant to any provision of the Resolution shall also be given to the Bond Insurer.

Section 7.06. Binding Effect. This Fourth Supplemental Resolution shall inure to the benefit of and shall be binding upon the Commission and its respective successors and assigns subject to the limitations contained herein.

Section 7.07. Effective Date. This Fourth Supplemental Resolution shall take effect immediately upon adoption.

Adopted this 17<sup>th</sup> day of March, 2003.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Secretary

243389

EXHIBIT A

FORM OF 2003 BOND

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BOND  
(State College Facilities)

No. R- \_\_\_\_\_ \$ \_\_\_\_\_

INTEREST RATE                      MATURITY DATE                      BOND DATE                      CUSIP NO.

\_\_\_\_\_

REGISTERED OWNER:      Cede & Co.

PRINCIPAL AMOUNT:      \$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS that the HIGHER EDUCATION POLICY COMMISSION (the "Commission"), an agency of the state of the State of West Virginia (the "State"), created and existing under the Constitution and laws of the State, for value received, hereby acknowledges itself obligated to, and promises to pay, but only out of the sources pledged for that purpose as hereinafter provided, and not otherwise, to the Registered Owner stated above, or registered assigns, on the Maturity Date stated above, the Principal Amount stated above, and to pay interest on the unpaid balance of said Principal Amount from the Interest Payment Date (as described below) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date stated above, at the Interest Rate per annum stated above, on April 1, 2003, and semiannually thereafter on April 1 and October 1 of each year (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Resolution.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by \_\_\_\_\_, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (15 days before the interest payment dates of April 1 and October 1) at the address of such Registered Owner as it appears on the registration books of the Commission maintained by \_\_\_\_\_, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to the bank account number on file with the Paying Agent on or prior to the applicable Record Date.

Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal corporate trust office of the Paying Agent in Charleston, West Virginia.

This Bond is one of an issue of a Series of Bonds in the aggregate principal amount of not to exceed \$40,000,000 (the "Bonds") authorized and issued to provide funds to be expended, together with other moneys available therefor, for refunding of certain outstanding revenue bonds issued by the predecessor of the Commission and paying Costs of Issuance of the 2003 Bonds, all pursuant to a General Resolution adopted by the Commission on September 9, 1992, and an Fourth Supplemental Resolution adopted by the Commission on March 17, 2003 (collectively, the "Resolution"). The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 18, Articles 12B and Chapter 18B, Articles 1, 2 and 10 of the West Virginia Code of 1931, as amended, and Refunding Act (collectively, the "Act").

This Bond and all Bonds of this issue are payable solely, equally and ratably from the Revenues (as such term is defined in the Resolution) on a parity in all respects with the Prior Bonds described below. Reference is hereby made to the Resolution as the same may be further amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Commission and the Registered Owners of the Bonds and any subsequently issued Additional Bonds. Certified copies of the Resolution are on file at the office of the Commission in the City of Charleston, West Virginia.

This Bond is a special obligation of the Commission, payable together with the Prior Bonds hereinafter described and any Additional Bonds which may hereafter be issued, solely from the sources pledged under the Resolution. The bonds of the series of which this Bond is one, as to both principal and interest, shall not constitute a debt or a pledge of the faith and credit or taxing power of the State of West Virginia or of any county, municipality or any other political subdivision of said State, and the owners thereof shall have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of said State for the payment of the principal thereof or interest thereon, but the Bonds, together with any Additional Bonds which may subsequently be issued on a parity therewith, shall be payable equally and ratably solely from the sources pledged under the Resolution.

The Bonds are issued on a parity in all respects with the Commission's outstanding "Prior Bonds" (as defined in said Fourth Supplemental Resolution) and other Additional Bonds which may hereafter be issued pursuant to the General Resolution.

The Bonds of this issue are subject to redemption prior to their stated maturity dates, as provided in the Resolution and as set forth in the following lettered paragraphs:

The Bonds maturing on \_\_\_\_\_ (the "Term Bonds"), are subject to mandatory redemption prior to maturity in part at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the Mandatory Redemption Date, beginning on \_\_\_\_\_

respectively, for the Term Bonds, and on each \_\_\_\_\_ 1 thereafter, in annual principal amounts as follows:

For the Term Bonds maturing on \_\_\_\_\_:

<u>Year</u>	<u>Amount</u>
-------------	---------------

For the Term Bonds maturing on \_\_\_\_\_:

<u>Year</u>	<u>Amount</u>
-------------	---------------

For the Term Bonds maturing on \_\_\_\_\_:

<u>Year</u>	<u>Amount</u>
-------------	---------------

The principal amount of the Bonds delivered to or purchased by the Paying Agent shall reduce pro tanto the principal amount of such series of Term Bonds to be redeemed on the Mandatory Redemption Date with respect to such maturity next following such delivery or purchase.

Beginning on \_\_\_\_\_, the Bonds maturing on and after \_\_\_\_\_, shall be subject to redemption prior to maturity, at the option of the Issuer, in whole, or in part, on any Business Day, by series and in order of maturity selected by the Issuer and by lot within a maturity in multiples of \$5,000, at the Redemption Prices (expressed as a percentage of the principal amount to be redeemed) set forth below, plus accrued interest to the date fixed for redemption:

<u>Redemption Periods</u> <u>(Dates Inclusive)</u>	<u>Redemption Prices</u>
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In the event of any redemption of less than all outstanding Bonds, the maturities to be redeemed shall be selected by the Registrar at the direction of the Commission, and Bonds to be redeemed shall be selected by lot within a maturity, or in such other manner deemed appropriate by the Registrar. If less than all the Bonds are to be redeemed, the Bonds to be redeemed shall

be identified by reference to the Series designation, date of issue, CUSIP numbers and maturity dates. Notice of the call for any redemption, unless waived by the Registered Owner, shall be given by the Registrar, by mailing a redemption notice, postage prepaid, at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of any Bond or portions of Bonds to be redeemed in whole or in part at the address shown on the registration books of the Commission maintained by the Registrar, for registration and transfer of the Bonds under the Resolution, and as otherwise prescribed in the Resolution, provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of Bonds.

The holder of this Bond shall have no right to enforce the provisions of the Resolution or to institute an action to enforce the covenants thereof, or to take any action with respect to a default hereof or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Resolution.

Additional Bonds may be issued under the Resolution, and reference is made to the Resolution with respect to the requirements for the issuance of Additional Bonds which shall be equally and ratably secured under the Resolution with the Bonds.

Modifications or amendments of the Resolution may be made to the extent and in the circumstances permitted by the Resolution to which reference is hereby made.

This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Registrar and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Registrar shall be required to register or transfer this Bond or exchange other Bonds for this bond during the period beginning on a Record Date and ending on an Interest Payment Date.

IT IS HEREBY FURTHER CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due form, time and manner as required by law.

All provisions of the Resolution and the statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN TESTIMONY WHEREOF, the Commission has caused this Bond to be executed by and on its behalf by the manual or facsimile signature of the Authorized Officer of the Commission, and has caused this Bond to be authenticated by the manual signature of an authorized officer of the Registrar, without which authentication this Bond shall not be valid nor entitled to the benefits of the Resolution, all as of the Bond Date stated above.

WEST VIRGINIA HIGHER EDUCATION POLICY  
COMMISSION

By: \_\_\_\_\_  
Its: Authorized Officer

\_\_\_\_\_

By: \_\_\_\_\_  
Its: Authorized Officer

REGISTRAR'S AUTHENTICATION CERTIFICATE

The undersigned Registrar hereby certifies that this is one of the 2003 Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below. Attached hereto is the complete text of the opinion of Spilman Thomas & Battle, PLLC, bond counsel, signed originals of which are on file with the Registrar, delivered and dated on the date of the original delivery of and payment for such Bonds.

Date of Authentication: \_\_\_\_\_

\_\_\_\_\_, as Registrar

By: \_\_\_\_\_  
Its Authorized Officer

STATEMENT OF INSURANCE

\_\_\_\_\_ Insurance Corporation (the "Insurer") has issued a policy containing the following provisions, such policy being on file at (Trustee's Name and Address).

The Insurer, in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described Obligations, the full and complete payment required to be made by or on behalf of the Issuer to (Trustee's Name) or its successor (the "Paying Agent") of an amount equal to (i) the principal of (either the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in causes (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Obligations" shall mean:

State of West Virginia  
Higher Education Policy Commission  
Revenue Refunding Bonds  
(State College Facilities)

Upon receipt of telephonic or telegraphic notice, such notice subsequently confined in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with \_\_\_\_\_, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignments to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to \_\_\_\_\_, shall disburse to such owners or the Paying Agent payment of the Insured Amounts due on such Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available

therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Issuer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at \_\_\_\_\_ and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

ASSIGNMENT

Social Security or Other Identifying Number of Assignee

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FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers  
unto \_\_\_\_\_

\_\_\_\_\_ the within Bond and does hereby irrevocably constitute and  
appoint \_\_\_\_\_

\_\_\_\_\_ to transfer the said Bond on the books kept for registration thereof with full power of  
substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

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SIGNATURE GUARANTEED:

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(Bank, Trust Company or Finn)

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(Authorized Officer)

NOTICE: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

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**FIFTH SUPPLEMENTAL RESOLUTION**

**Amending the General Resolution**  
**of the**  
**HIGHER EDUCATION POLICY COMMISSION**

Adopted: April 24, 2003

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HIGHER EDUCATION POLICY COMMISSION

FIFTH SUPPLEMENTAL RESOLUTION OF THE  
HIGHER EDUCATION POLICY COMMISSION

SUPPLEMENTAL RESOLUTION AMENDING AND  
SUPPLEMENTING THE GENERAL RESOLUTION OF THE  
COMMISSION ADOPTED SEPTEMBER 9, 1992.

WHEREAS, the Board of Directors of the State College System (the "Board") on September 9, 1992, adopted a General Resolution (the "General Resolution") pursuant to which it is authorized to issue one or more series of its revenue bonds (the "Bonds");

WHEREAS, the Higher Education Policy Commission (the "Commission") is an agency of the State of West Virginia (the "State"), is the successor to the Board and is empowered and authorized to issue bonds pursuant to the Act, among other things, in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in the Act;

WHEREAS, all capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the General Resolution;

WHEREAS, the General Resolution establishes the basic provisions regarding the structure of and security for all Bonds to be issued thereunder, and further provides that each Series of Bonds to be issued from time to time is to be individually authorized by a Supplemental Resolution setting forth the principal amount of such Series of Bonds, the terms and provisions of such Series of Bonds, provisions required by any Credit Provider for such Series of Bonds and any other provisions which may be specific to such Series of Bonds;

WHEREAS, pursuant to the First Supplemental Resolution (the "First Supplemental Resolution") adopted by the Board on September 9, 1992, the Board issued its first Series of Bonds under the General Resolution, being its \$46,825,000 aggregate principal amount State College System Revenue Refunding Bonds, Series 1992, dated November 1, 1992 (the "1992 Bonds");

WHEREAS, pursuant to the Second Supplemental Resolution (the "Second Supplemental Resolution") adopted by the Board on January 15, 1993, the Board made a minor amendment to the First Supplemental Resolution, ratifying a change of the date of the 1992 Bonds from September 1, 1992 to November 1, 1992;

WHEREAS, pursuant to the Third Supplemental Resolution (the "Third Supplemental Resolution") adopted by the Board on October 21, 1997, the Board issued its second Series of Bonds under the General Resolution, being its \$9,920,000 aggregate principal amount State College System Revenue Bonds (College Improvement Projects) 1997 Series A,

dated November 20, 1997 (the "1997 Bonds" and with the 1992 Bonds, the "Currently Outstanding Bonds");

WHEREAS, pursuant to the Fourth Supplemental Resolution (the "Fourth Supplemental Resolution") adopted by the Commission on March 17, 2003, the Commission authorized the issuance of its Revenue Refunding Bonds (State College Facilities) in an amount not to exceed \$40,000,000 (the "2003 Bonds") to refund all of the Currently Outstanding Bonds;

WHEREAS, Section 10.02 of the General Resolution provides that the Commission may amend or modify the rights and obligations of the Commission and the Owners of Bonds issued thereunder with the consent of the Owners of at least fifty percent (50%) in principal amount of Bonds outstanding at the time such consent is given and the Credit Provider, if any;

WHEREAS, Spilman Thomas & Battle, PLLC, Bond Counsel with respect to the 2003 Bonds, has delivered its opinion to the effect that upon issuance of the 2003 Bonds the amendments to the General Resolution contained herein will have been approved by the Owners of at least fifty percent (50%) of the Bonds Outstanding as of the date of issuance of the 2003 Bonds, and that such amendments shall be in full force and effect subject to the terms hereof.

Section 1.01. Amendments to the General Resolution. The General Resolution is hereby amended as follows:

(a) The definition of "Revenues" shall be amended by adding new clauses (iv) and (v) to read as follows:

(iv) any other funds from any source that may now or hereafter be legally pledged by the Commission and made available for payment of Debt Service and are specifically pledged by the Commission for such payment by Supplemental Resolution; and

(v) all tuition and registration fees collected at Universities previously governed by the State University System Board and now supervised by the Commission and earnings thereon, provided that the consolidation of such tuition and registration fees with the fees described in clauses (i) of this definition of Revenues has been approved by Supplemental Resolution.

(b) Clauses (ii) and (iii) of Section 2.04 shall be amended to read as follows:

(ii) the Revenues of the type set forth in subsection (i) of the definition of "Revenues" in Section 1.02 hereof, collected by the Commission for the last Fiscal Year preceding the date of issuance of Additional Bonds have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); or

(iii) the Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Commission for the last Fiscal Year preceding the date of issuance of

such Additional Bonds, plus Projected Revenues (as defined below) have not been less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); and (b) Projected Revenues have not been greater than 20% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or which were not pledged under the General Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of such Additional Bonds.

(c) Section 6.06 shall be amended to read as follows:

Section 6.06. Debt Service Coverage. The Commission shall at all times fix and otherwise provide for the collection of Revenues in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period. To evidence its compliance with this covenant, the Commission shall, on or before November 1, deliver to the Municipal Bond Commission, any Credit Provider, any Trustee and each Original Purchaser of any Series of Bonds, a Certificate of an independent certified public accountant reciting that the Board was in compliance with this Section 6.06 during the preceding Budget Period and setting forth the amount of Revenues collected, the amount of Debt Service paid and the percentage of Debt Service coverage in effect for such Budget Period.

(d) Section 10.02 (a) shall be amended to read as follows:

Supplemental Resolution With Owner Consent. (a) Any modification of or amendment to this General Resolution and of the rights and obligations of the Commission and of the Owners of the Bonds hereunder other than as permitted under Section 10.01 of the General Resolution, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in Section 10.03 General Resolution (i) of the Owners of at least fifty percent (50%) in Principal amount of the Bond Outstanding at the time such consent is given, (ii) in case less than all of the several Series of Bond Outstanding are affected by the modification or amendment, of the Owners of at least fifty percent (50%) in Principal amount of the Bonds, if any, of such Series so affected and Outstanding at the time such consent is given, and (iii) in case less than all maturities of a Series of Bonds are affected by the modification or amendment, of the Owners of at least fifty percent (50%) in Principal amount of the Bonds of each maturity so affected and Outstanding at the time such consent is given; provided, however that to the extent any of the Bonds are secured by a Credit Facility, only the consent of the Credit Provider, and not the consent of the Owners of such Bonds, shall be required. If any such modification or amendment will not take effect until certain Bonds shall no longer remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section.

(d) All references to the term "Commission" used in the General Resolution prior to the adoption of the Fourth Supplemental Resolution shall be deemed to refer to the Municipal Bond Commission.

Section 1.02. Prospective Amendments To General Resolution. The following amendments to the General Resolution shall only take effect upon the adoption by the Commission of a subsequent Supplemental Resolution putting such amendments into effect:

(a) Section 6.03(b) shall be amended to read as follows:

(b) The payment of the Debt Service on all Bonds issued under this General Resolution shall be secured forthwith equally and ratably by a first lien on the Revenues, and the Commission hereby pledges the Revenues to payment of the Principal, Purchase Price and Redemption Price of and interest on the Bonds, but the existence of such pledge shall not prevent the expenditure, deposit or commingling of Revenues by the Commission so long as all required payments under this General Resolution and any Supplemental Resolution are made at the times and in the amounts specified herein and therein. The Commission shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of such Revenues pledged under this General Resolution and all the rights of the Owners under this General Resolution against all claims and demands of all persons whomsoever.

(b) A New Section 10.08 shall be added to read as follows:

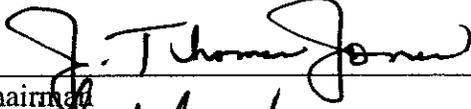
Section 10.08. Consolidation of System Financings. The Commission may consolidate the financings previously issued by the College System Board with the financings issued by the University of West Virginia Board of Trustees, and its successors under the terms of the general resolution dates as of September 9, 1992, as amended or supplemented from time to time (the "University General Resolution"). The General Resolution shall be amended and restated in its entirety to conform to the terms of the University General Resolution as amended and supplemented from time to time.

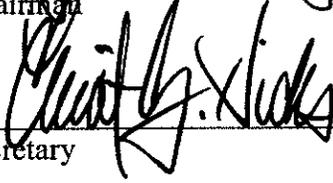
Section 1.03 Binding Effect. This Fifth Supplemental Resolution shall inure to the benefit of and shall be binding upon the Commission and its respective successors and assigns subject to the limitations contained herein.

Section 1.04. Consent of Owners of 2003 Bonds. By their purchase of the 2003 Bonds, the Owners thereof shall be deemed to have approved the amendments to the General Resolution contained herein without further consent on their part.

Section 1.05. Effective Date. This Fifth Supplemental Resolution shall take effect immediately upon delivery of the 2003 Bonds to the original purchasers thereof.

Adopted this 24<sup>th</sup> day of April, 2003.

  
Chairman

  
Secretary

264668

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**SIXTH SUPPLEMENTAL RESOLUTION**  
**Amending the General Resolution**  
**of the**  
**HIGHER EDUCATION POLICY COMMISSION**

Adopted: June 5, 2003

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HIGHER EDUCATION POLICY COMMISSION

SIXTH SUPPLEMENTAL RESOLUTION OF THE  
HIGHER EDUCATION POLICY COMMISSION

SUPPLEMENTAL RESOLUTION AMENDING AND  
SUPPLEMENTING THE GENERAL RESOLUTION OF THE  
COMMISSION ADOPTED SEPTEMBER 9, 1992.

WHEREAS, the Board of Directors of the State College System (the "Board") on September 9, 1992, adopted a General Resolution (the "General Resolution") pursuant to which it is authorized to issue one or more series of its revenue bonds (the "Bonds");

WHEREAS, the Higher Education Policy Commission (the "Commission") is an agency of the State of West Virginia (the "State"), is the successor to the Board and is empowered and authorized to issue bonds pursuant to the Act, among other things, in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in the Act;

WHEREAS, all capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the General Resolution;

WHEREAS, the General Resolution establishes the basic provisions regarding the structure of and security for all Bonds to be issued thereunder, and further provides that each Series of Bonds to be issued from time to time is to be individually authorized by a Supplemental Resolution setting forth the principal amount of such Series of Bonds, the terms and provisions of such Series of Bonds, provisions required by any Credit Provider for such Series of Bonds and any other provisions which may be specific to such Series of Bonds;

WHEREAS, pursuant to the First Supplemental Resolution (the "First Supplemental Resolution") adopted by the Board on September 9, 1992, the Board issued its first Series of Bonds under the General Resolution, being its \$46,825,000 aggregate principal amount State College System Revenue Refunding Bonds, Series 1992, dated November 1, 1992 (the "1992 Bonds");

WHEREAS, pursuant to the Second Supplemental Resolution (the "Second Supplemental Resolution") adopted by the Board on January 15, 1993, the Board made a minor amendment to the First Supplemental Resolution, ratifying a change of the date of the 1992 Bonds from September 1, 1992 to November 1, 1992;

WHEREAS, pursuant to the Third Supplemental Resolution (the "Third Supplemental Resolution") adopted by the Board on October 21, 1997, the Board issued its second Series of Bonds under the General Resolution, being its \$9,920,000 aggregate principal amount State College System Revenue Bonds (College Improvement Projects) 1997 Series A,

dated November 20, 1997 (the "1997 Bonds" and with the 1992 Bonds, the "Currently Outstanding Bonds");

WHEREAS, pursuant to the Fourth Supplemental Resolution (the "Fourth Supplemental Resolution") adopted by the Commission on March 17, 2003, the Commission authorized the issuance of its Revenue Refunding Bonds (State College Facilities) in an amount not to exceed \$40,000,000 (the "2003 Bonds") to refund all of the Currently Outstanding Bonds;

Whereas, pursuant to the Fifth Supplemental Resolution (the "Fifth Supplemental Resolution") adopted by the Commission on April 24, 2003, the Commission made certain amendments to the General Resolution.

WHEREAS, Section 10.02 of the General Resolution provides that the Commission may amend or modify the rights and obligations of the Commission and the Owners of Bonds issued thereunder with the consent of the Owners of at least fifty percent (50%) in principal amount of Bonds outstanding at the time such consent is given and the Credit Provider, if any;

WHEREAS, Spilman Thomas & Battle, PLLC, Bond Counsel with respect to the 2003 Bonds, has delivered its opinion to the effect that upon issuance of the 2003 Bonds the amendments to the General Resolution contained herein will have been approved by the Owners of at least fifty percent (50%) of the Bonds Outstanding as of the date of issuance of the 2003 Bonds and that such amendments shall be in full force and effect subject to the terms hereof.

Section 1.01. Amendments to the General Resolution. The General Resolution is hereby amended as follows:

(a) Section 2.06 shall be amended by adding an additional sentence at the end thereof to read as follows:

The obligations of the Commission under any Interest Rate Swap Agreements shall be payable from the Revenues on a parity with any Outstanding Bonds and such obligations shall be considered as Debt Service for the purpose of Section 6.03(c) only.

(b) Section 6.03 shall be amended by adding a subsection (c) to read as follows:

(c) Notwithstanding any other provisions herein to the contrary, the collection and transfer of the Revenues shall be governed as follows: Beginning on September 1, 2003, and on each February 1 and September 1 thereafter the Treasurer shall prohibit any withdrawals from the capital improvement funds held by the Treasurer on behalf of each College until the amounts on deposit in such funds equal one-half of the Debt Service on the Bonds (the "Semi-Annual Debt Service Requirement") for the 12-month period beginning on September 1 of each year (an "Annual Payment Period") allocable to such College and will only release funds for such College's use in excess of the College's allocable share of the Semi-Annual Debt Service

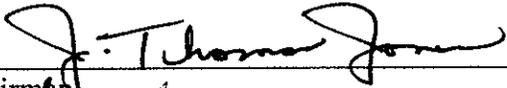
Requirement. The Treasurer shall disburse the aggregate amount retained as the Semi-Annual Debt Service Requirement from all Colleges to the Municipal Bond Commission and the Trustee for the Bonds, as the case may be, at the times required hereunder for making such Debt Service transfers. The Commission agrees to furnish the Treasurer with the allocable amount payable by each College as its Semi-Annual Debt Service Requirements for each Annual Payment Period prior to September 1 of such Annual Payment Period.

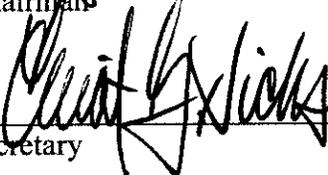
Section 1.02. Binding Effect. This Sixth Supplemental Resolution shall inure to the benefit of and shall be binding upon the Commission and its respective successors and assigns subject to the limitations contained herein.

Section 1.03. Consent of Owners of 2003 Bonds. By their purchase of the 2003 Bonds, the Owners thereof shall be deemed to have approved the amendments to the General Resolution contained herein without further consent on their part.

Section 1.04. Effective Date. This Sixth Supplemental Resolution shall take effect immediately upon delivery of the 2003 Bonds to the original purchasers thereof.

Adopted this 5<sup>th</sup> day of June, 2003.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Secretary

**TAX COMPLIANCE CERTIFICATE**

**of**

**STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION, as Issuer**

State of West Virginia Higher Education Policy Commission  
Revenue Refunding Bonds  
(College Facilities)  
2003 Series A

**Dated August 13, 2003**

## TAX COMPLIANCE CERTIFICATE

In connection with the issuance by the Higher Education Policy Commission, a body corporate and governmental instrumentality of the State of West Virginia (the "**Commission**"), of its \$22,160,000.00 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A (the "**2003 Bonds**") and in furtherance of the covenants of the Commission contained in the Resolution and the Certificate of Determination (the "**Commission Documents**"), and pursuant to Treasury Regulations Section 1.148-2(b)(2), the Commission makes and enters into the following Tax Certificate.

**SECTION 1. DEFINITIONS.** Capitalized terms, if defined herein shall have the meanings set forth herein, or in Appendix I or, where not so defined, in the Resolution,

### **SECTION 2. REPRESENTATIONS.**

(a) **Purpose.** The Bonds are being issued on the date hereof (the "**Delivery Date**") to currently refund all of the Board of Directors of the State Colleges (the "**Board**") (an agency to which the Higher Education Policy Commission succeeded) currently outstanding State College System Revenue Refunding Bonds, Series 1992 (the "**1992 Bonds**"), which were issued in an aggregate principal amount of \$46,825,000.00 (the "**Refunded Bonds**"). The Bonds are being issued on a current refunding basis in order to achieve a reduction in debt service costs, with the Refunded Bonds to be retired on October 1, 2003.

(b) **Refunded Bonds.** The Refunded Bonds were issued by the Commission for the purpose of refunding a portion of the Board's State System Tuition Fee Revenue Bonds, 1977 Series A (the "**1977 Series A Bonds**"), a portion of the Board's State System Tuition Fee Revenue Bonds, 1986 Series A (the "**1986 Series A Bonds**"), a portion of the Registration Fee Revenue Refunding Bonds, 1989 Series A (the "**1989 Series A Bonds**"), and a portion of the Registration Fee Revenue Bonds, 1989 Series B (the "**1989 Series B Bonds**") (the **1977 Series A Bonds**, the **1986 Series A Bonds**, the **1989 Series A Bonds** and the **1989 Series B Bonds** sometimes are referred to as the "**Original Bonds**").

(c) **No Replacement; Average Maturity.** No portion of the amounts received from the sale of the Bonds will be used as a substitute for other funds which were otherwise to be used as a source of refinancing the Refunded Bonds. None of the proceeds of the Bonds are to be used to provide working capital. The Bonds are not expected to be outstanding longer than the period reasonably necessary to accomplish the governmental purposes of the issue.

(e) **Statement as to Facts, Estimates and Circumstances.** The facts and estimates set forth in this Tax Certificate on which the Commission's expectations as to the amount and use of the Gross Proceeds of the Bonds are based are made to the best of the knowledge and belief of the undersigned officer of the Commission, and the Commission's expectations are reasonable.

(f) **Responsible Person.** The undersigned is an officer of the Commission responsible for the issuance of the Bonds, and has made due inquiry with respect to and is fully informed as to the matters set forth herein.

(g) **Refunded Bonds Not Hedge Bonds.** Upon the initial issuance of the Original Bonds and the 1992 Bonds, the Commission reasonably expected that (1) at least 85 percent of the "spendable proceeds" of such Original Bonds and 1992 Bonds would be used to carry out the governmental purpose of such issue within the three year period beginning on the date of issuance of the Original Bonds and the 1992 Bonds and (2) not more than 50 percent of the proceeds of the Original Bonds and 1992 Bonds would be invested in Nonpurpose Investments having substantially guaranteed yields for four years or more.

(h) **Operating Rule.** The 2003 Bonds, as of the Delivery Date, are sufficient to refund the outstanding principal amount of the 1992 Bonds, plus the Call Premium on the 1992 Bonds and the interest thereon, determined as of the Delivery Date of the Bonds. For purposes of this section, "**principal amount**" means, in reference to a Plain Par Bond, its stated principal amount, and in reference to any other bond, its present value.

(i) **Single Issue.** Other than as set forth herein, no other obligations will be: (a) sold at substantially the same time as the Bonds (*i.e.*, within 15 days of July 31, 2003, the date on which the Commission executed a letter of representation with Citigroup Global Markets, Inc. (the "**Underwriter**") in which the Commission agreed to execute a bond purchase agreement on July 31, 2003, with respect the Bonds. The Bonds are being issued on the date hereof (the "**Delivery Date**").

**SECTION 3. REASONABLE EXPECTATIONS OF THE COMMISSION AS TO FACTS, ESTIMATES AND CIRCUMSTANCES.** The Commission makes the following representations and statements of fact and expectation on the basis of which it is not expected that the proceeds of the Bonds will be used in a manner that will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code:

**(a) Application of Sale Proceeds.**

(1) **Sale Proceeds; No Overissuance.** The net amount received by the Commission from the sale of the Bonds (the "**Sale Proceeds**") will be \$22,941,741.40, which amount consists of the aggregate principal amount of the Bonds of \$22,160,000.00, plus a Net Premium amount of \$781,741.40 (but does not include Pre-Issuance Accrued Interest from August 1, 2003 to August 13, 2003, of \$26,543.54). The Sale Proceeds and the investment earnings thereon do not exceed the amount necessary for the purpose set forth in Section 2(a)(1) hereof by more than \$50,000. A portion of the expenditures described below were incurred prior to the date hereof in connection with the forward aspects of the sale of the Bonds.

(2) **Escrow Fund.** An amount of the Sale Proceeds equal to \$22,665,158.13 (which amount does not include \$26,543.54 of Pre-Issuance Accrued Interest which will also be delivered to the **Interest Account**, and does not include \$109,416.87 from the Prior Debt Service Fund which will be deposited in the Escrow Fund) will be deposited on the date hereof into the 2003 Escrow Fund (the "**Escrow Fund**"). The balance will be used to purchase the Treasury securities. These Treasury securities, together with the investment earnings thereon, and uninvested cash will be used to pay the principal of, and interest and redemption premium on, the Refunded Bonds, with the final payment to be made on October 1, 2003.

(3) **Costs of Issuance.** An amount of the Sale Proceeds equal to \$130,320.78 will be delivered to the Paying Agent as the Costs of Issuance Fund, and will be expended within twelve months after the Delivery Date to provide for the payment of expenses incurred in connection with the issuance of the Bonds, including, but not limited to Bond Counsel fees, financial advisor fees and printing costs.

(4) **Underwriters' Discount.** An amount of the Sale Proceeds equal to \$78,587.20 will be used on the date hereof for the payment of the underwriters' discount with respect to the Bonds.

(5) **Bond Insurance Premium.** An amount of the Sale Proceeds equal to \$65,000.00 will be delivered on the date hereof by the Underwriter to the Bond Insurer for the payment of the premium for bond insurance with respect to the Bonds.

(6) **Additional Proceeds.** An amount of the Sale Proceeds equal to \$2,675.29 consisting of Additional Proceeds (the "Minor Portion") will be delivered to the Paying Agent and deposited in the Costs of Issuance Fund.

**(b) Funds on Hand Related to the Refunded Bonds.**

(1) **Prior Debt Service Fund.** Proceeds of the 1992 Bonds were deposited in an escrow account (the "**Prior Debt Service Fund**") in order to refund the Original Bonds. There is presently \$109,416.87 in the Prior Debt Service Fund. Proceeds on deposit in the Prior Debt Service Fund will be deposited in the Escrow Fund.

(2) **No Other Amounts.** Other than the amounts described in this subsection (b), there are no original, investment, or Transferred Proceeds of the Refunded Bonds or the Original Bonds that remain unspent on the Delivery Date or amounts that would, absent the issuance of the Bonds, have been used to pay debt service on the Refunded Bonds.

(c) **Compliance with Reimbursement Regulations.** To the extent proceeds of the Original Bonds and the 1992 Bonds were used to reimburse the Commission for costs, the Commission complied with the law applicable to reimbursements with respect to such proceeds.

(d) **No Other Funds.** Other than the Escrow Fund and the Prior Debt Service Fund, no Fund or Account which secures or otherwise relates to the Bonds has been established, nor are any funds or accounts expected to be established, pursuant to any instrument.

(e) **Transferred Proceeds.** On any date that proceeds of the Bonds discharge any of the outstanding principal amount of the Refunded Bonds, proceeds of the Refunded Bonds which are unexpended on such date become proceeds of the Bonds ("**Transferred Proceeds**") and cease to be proceeds of the Refunded Bonds, as more fully described in Appendix III. An amount equal to \$10,651.98 becomes Transferred Proceeds on the date of discharge of the 1992 Bonds. The proceeds of the 2003 Bonds, taking into account the impact of the Transferred Proceeds, will be invested to earn a yield not greater than 3.242345%, and therefore are not invested in a Higher Yielding Investment. The only unspent proceeds of the Refunded Bonds on the date hereof are proceeds deposited in the Prior Debt Service Fund. See Exhibit C-1, the Verification Report (as defined below), and Appendix VI.

(i) **Bond Yield.**

(1) **In General.** The yield on the Bonds is the discount rate that, when used in computing the present value on the Delivery Date of all the expected issue payments of principal and interest and fees for qualified guarantees that are paid and to be paid on the Bonds, produces an amount equal to the present value, using the same discount rate, of the aggregate issue price of the Bonds on the Delivery Date. The present value on the Delivery Date of the aggregate issue prices of the Bonds, and based upon certain information provided by the Underwriter and MBIA (the "**Insurer**"), including that the present value of the insurance premium is less than the present value of the interest reasonably expected to be saved as a result of the purchase of the insurance policy (see Exhibits A and C attached hereto), is \$22,903,284.94 (the face amount of the Bonds of \$22,160,000.00, plus Net Premium on the Bonds of \$781,741.40, plus Pre-Issuance Accrued Interest of \$26,543.54, minus the premium for the municipal bond insurance for the Bonds of \$65,000.00). The yield on the Bonds, computed in this manner and based upon calculations provided by the Underwriter and verified by Causey Demgen & Moore, Inc. (the "**Verification Agent**"), is expected to be at least 3.242345 percent. The Verification Report of the Verification Agent is contained at Exhibit C-1.

(2) Expectations Regarding Yield Limitations.

(i) Generally.

Fund or Account	Temporary Period of Unrestricted Investment	Restriction After Temporary Period	Excepted From Rebate (Y)/(N)
Escrow Fund	90 Days	Bond Yield	N
Prior Debt Service Fund	None	N/A	N
Additional Proceeds (Minor Portion)	Unlimited	N/A	N
Cost of Issuance	12 months	Bond Yield	N

**Escrow Fund.** The yield on the investment of the Escrow Fund does not exceed 0.91869 percent, as computed by the Underwriter and verified by the Verification Agent. As previously noted, in determining the yield on the investment of the Escrow Fund, the Commission has taken Transferred Proceeds of \$10,651.98 into account as additional yield on such investment in recognition of the Transferred Proceeds from the Prior Debt Service Fund having a yield in excess of the yield on the Bonds, which did not result in a Higher Yielding Investment. In order to minimize the amount of negative arbitrage on the investment of the proceeds in the Escrow Fund, the Commission, with the assistance of its financial advisor, who acted as broker, solicited bids for the investments in the Escrow Fund (the "Securities"). For the Securities, the Commission:

(i) made a bona fide solicitation for the purchase of the investment and (A) the bid specifications were in writing and were timely forwarded to potential providers; (B) the bid specifications included all material terms of the bids (that is, those terms that may directly or indirectly affect the yield or the cost of the investment); (C) the bid specifications included a statement notifying potential providers that submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to formal or informal agreement that the potential provider has with Commission or any other person (whether or not in connection with the bond issue) and the bid is not being submitted solely as a courtesy to the Commission or any other person for purposes of satisfying the requirements of the applicable Treasury regulations; (D) the terms of the bid specifications are commercially reasonable (that is, there is a legitimate business purpose for the term other than to increase the purchase price or reduce the yield on the investment); (E) the terms of the solicitation take into account the Commission's reasonably expected deposit and drawdown schedule for the amounts invested; (F) all potential providers had an equal opportunity to bid (for example, no potential provider is given the opportunity to review other bids before providing a bid); and (G) at least three reasonably competitive providers are solicited for bids (that is, those having an established industry reputation as a competitive provider of the type of investments being purchased);

(ii) for each of the Securities, the bids received met all of the following requirements: (A) Commission received at least three bids from providers solicited under the solicitation described in (i) above and who do not have a material financial interest in the issue; (B) at least one of the three bids received is from a reasonably competitive provider; and (C) the Financial Advisor did not bid to provide the investment.

(iii) for each of the Securities, except as provided below, the winning bid is the highest yielding bona fide bid (determined net of broker's fees).

(iv) the winning bidders certified the administrative costs that it is (or will be) paying to third parties in connection with supplying the investment contract; and

(v) for each of the Securities, Commission will retain the following records with the bond documents until three years after the Bonds are redeemed: (A) a copy of the contract; (B) a receipt or other record of the amount paid for the investment, including records of administrative costs, and the related certification of the provider; (C) for each bid submitted, the name of the person and entity bidding, the time and date of the bid, and the bid results; and (D) the bid solicitation form.

See Exhibit D.

**SECTION 4. REBATE REQUIREMENT, CALCULATIONS AND PAYMENT** The Commission has covenanted to comply with the Rebate Requirement of Section 148(f) of the Code. The regulations promulgated thereunder are described in Appendix II. In addition, Appendix III sets forth certain spending exceptions to the Rebate Requirement.

The spending exceptions to the Rebate Requirement are described in Appendix III.

**SECTION 5. ALLOCATION AND ACCOUNTING RULES.** The Commission has covenanted to comply with this Tax Certificate which includes the allocation and accounting rules described in Appendix IV for purposes of allocating Gross Proceeds to the Bonds, allocating Gross Proceeds to investments, and allocating Gross Proceeds to expenditures.

**SECTION 6. PROHIBITED INVESTMENTS AND DISPOSITIONS.** Upon the purchase or sale of a Nonpurpose Investment, Gross Proceeds of an issue are not allocated to a payment for that Nonpurpose Investment in an amount greater than, or to a receipt from that Nonpurpose Investment in an amount less than, the fair market value of the Nonpurpose Investment as of the purchase or sale date. The fair market value of a Nonpurpose Investment is adjusted to take into account Qualified Administrative Costs allocable to the investment. Thus, Qualified Administrative Costs increase the payments for, or decrease the receipts from, a Nonpurpose Investment. The Commission shall comply with the procedures with respect to compliance with these requirements contained in Appendix V.

**SECTION 7. NO FEDERAL GUARANTEE.** The Commission covenants not to invest five percent or more of the Proceeds of the Bonds in federally insured deposits or accounts or otherwise invest such Proceeds in any obligation the payment of principal or interest

on which is (in whole or in part) a direct obligation of or guaranteed by the United States (or any agency or instrumentality thereof). Notwithstanding the foregoing, the Commission may invest the Proceeds of the Bonds in any investment guaranteed by the following agencies of the United States: (a) the Federal Housing Administration; (b) the Veterans Administration; (c) the Federal National Mortgage Association; (d) the Federal Home Loan Mortgage Corporation; and (e) the Government National Mortgage Association. Moreover, the Commission may invest the Proceeds of the Bonds (a) during an initial temporary period until such proceeds are needed for the purpose for which the Bonds were issued; (b) in a bona fide Debt Service Account; (c) in a reasonably required reserve or replacement fund; (d) in obligations issued by the United States Treasury; (e) in obligations issued pursuant to Section 21B(d)(3) of the Federal Home Loan Bank Act, as amended by Section 511(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or any successor provision; or (f) in a refunding escrow.

**SECTION 8. RESTRICTIONS ON NONGOVERNMENTAL USE.** The Commission covenants that (a) no more than five percent or \$5 million in the aggregate of the Sale Proceeds of the Bonds will be used to make or finance loans (other than loans which enable the borrower to finance any governmental tax or assessment of general application for an essential governmental function or which are used to acquire or carry Nonpurpose Investments) to any person other than a governmental unit; (b) no more than the lesser of (i) 10 percent or (ii) \$15 million of the Sale Proceeds of the Bonds will be used in any trade or business carried on by any natural person or any activity carried on by anyone other than a natural person or a state or local governmental unit; and (c) no more than 5 percent of such proceeds shall be used for "unrelated" or "disproportionate related" private use; provided that, this sentence shall not preclude private business use that occurs in circumstances that will not adversely affect the exclusion from gross income of interest on the Bonds. For purposes of this section, any use of a project as a member of the general public shall be disregarded. The Commission covenants to obtain an opinion of Special Tax Counsel as to the continuing tax-exemption of the Bonds in the event that the use of the Bond proceeds changes or is to be changed in a manner that would violate these restrictions. **SECTION 10. INFORMATION REPORTING.** The Commission has reviewed the Internal Revenue Service Form 8038-G to be filed in connection with the issuance of the Bonds, a copy of which is attached hereto as Exhibit B, and all of the information contained therein is, to the best of the Commission's knowledge, true and complete.

**SECTION 11. AMENDMENTS.** This Tax Certificate has been executed pursuant to the Resolution wherein the Commission has covenanted to comply with the provisions of this Tax Certificate in order to maintain the exclusion of interest on the Bonds from gross income for purposes of Federal income taxation. This Tax Certificate sets forth the information, representations, and procedures necessary in order for Bond Counsel to render its opinion regarding the exclusion of interest on the Bonds from gross income for purposes of Federal income taxation and may be amended or supplemented from time to time to maintain such exclusion only with the approval of Bond Counsel.

Notwithstanding any other provision herein, the covenants and obligations contained herein may be and shall be deemed modified to the extent the Commission secures an opinion of Bond Counsel that any action required hereunder is no longer required or that some

further action is required in order to maintain the exclusion of interest on the Bonds from gross income for purposes of Federal income taxation.

**SECTION 12. SUPPLEMENTATION OF THIS CERTIFICATE.** The Commission understands the need to supplement this Tax Certificate periodically to reflect further developments in the Federal income tax laws governing the exclusion from Federal gross income of interest on the Bonds and will, periodically, seek the advice of its Bond Counsel as to the propriety of seeking the review of and supplements to this Tax Certificate from Bond Counsel.

**STATE OF WEST VIRGINIA HIGHER  
EDUCATION POLICY COMMISSION**

Dated: August 13, 2003

By: J. Thomas Jones  
Title: Chairman

268597



## Exhibit A

### Initial Issue Price and Underwriter's Certificate

To Tax Compliance Certificate of  
State of West Virginia Higher Education Policy Commission  
Pertaining to  
\$22,160,000.00  
Revenue Refunding Bonds  
(State College Facilities)  
2003 Series A

Citigroup Global Markets Inc. (the "Underwriter"), as lead underwriter for the Bonds identified above (the "Issue"), issued by the State of West Virginia Higher Education Policy Commission (the "Issuer"), based on its knowledge regarding the sale of the Issue, certifies as of this date as follows:

(1) Issue Price -- Section 148. All of the Bonds of the Issue were offered to the general public in a bona fide public offering at an average price of 103.528% of the principal amount of such Bonds (the "Initial Offering Price" as applicable to the respective maturities, some higher than principal amount (Premium Bonds) and some lower than principal amount (Original Issue Discount Bonds)), (plus Pre-Issuance Accrued Interest in the amount of \$26,543.54), the total of which is not more than the fair market value of the Issue as of August 13, 2003, the Sale Date of the Issue. As of the Sale Date, all of the Bonds were sold (other than to bond houses, brokers and other intermediaries) at their respective Initial Offering Prices. The aggregate Initial Offering Price for the Issue is \$22,968,284.94 (the "Issue Price", which amount includes Pre-Issuance Accrued Interest of \$26,543.54 and the Net Premium Amount on the Bonds is \$781,741.40.

(2) Information Return. For purposes of the Information Return required by Section 149(e) of the Code to be filed in connection with the Issue:

- The Initial Offering Price of the Issue is \$22,968,284.94.
- The weighted average maturity of the Issue is 4.275 years and the remaining weighted average maturity of the Refunded Bonds is 4.469 years.
- The Yield on the Issue, calculated as described in the next sentence, is at least 3.242345%. That is the Yield that, when used in computing the present worth of all payments of principal to be paid on the Issue, computed on the basis of a 360 day year and semi-annual compounding, produces an amount equal to the aggregate principal amount of the Issue as stated in paragraph (1), less the premium paid for the Bond Issuance.

- The CUSIP Number assigned to the final maturity of the Issue is 95639RAJ8.

(3) Credit Enhancement. The amount and time of payment of the premium for the Bond Insurance pertaining to all of the obligations of the Issue are stated in the Tax Compliance Certificate. Based on that information and the Underwriter's knowledge and experience and, as to (B) below, based on an estimate by the Underwriter of the Yields at which such obligations would have sold in the absence of the Bond Insurance:

- (A) The premium paid for the Bond Insurance does not exceed a reasonable charge for the transfer of credit risk, taking into account charges by credit enhancers in similar transactions with which the Underwriter is familiar.
- (B) The present value of the premium paid for the Bond Insurance is less than the present value of the interest reasonably expected to be saved on the Issue as a result of the Bond Insurance, for which purpose present value is computed by using the yield -to-maturity of the Issue (taking into account both the premium paid for the Bond Insurance and all fixed payments to be made under the Swap) as the discount rate.
- (C) The Bond Insurance was a vital and necessary factor in the marketing of the Issue to the public.

(4) Underwriter's Compensation. The Underwriter's discount is \$78,587.20, which will be withheld by the Underwriter from the purchase price otherwise paid to the Issuer as compensation for its services in selling the Issue to the public.

(5) Discount Bonds Subject to Mandatory Early Redemption. No bond of the Issue that is subject to mandatory early redemption has a stated redemption price that exceeds the Initial Offering Price of such bond.

(6) Premium Bonds. Some of the Bonds in the Issue have an Initial Offering Price that exceeds its stated redemption price at maturity. The gross amount of such premium is \$807,367.70.

(7) Original Issue Discount Bonds. Some of the Bonds in the Issue have an Initial Offering Price that is less than its stated redemption price at maturity. The gross amount of such original issue discount is \$25,626.30.

(8). Net Premium Amount. The gross amount of the premium on the Premium Bonds exceeds the gross amount of the original issue discount on the Original Issue Discount Bonds, resulting in a Net Premium Amount of \$781,741.40.

(9) No Stepped Coupon Bonds. No bond of the Issue bears interest at an increasing interest rate.

All capitalized terms not defined in this Certificate have the meaning set forth in the Tax Compliance Certificate or in Appendix I thereto.

The signer is an officer of the Underwriter and duly authorized to execute and deliver this Certificate of the Underwriter. The Underwriter understands that the certifications contained in this Certificate will be relied on by the Issuer and the Borrower in making certain of their representations in the Tax Compliance Certificate and in completing and filing the Information Return for the Issue, and by Spilman Thomas & Battle, PLLC, as Bond Counsel, in rendering certain of its legal opinions in connection with the issuance of the Issue.

Dated: August 13, 2003

CITIGROUP GLOBAL MARKETS INC.

By: 

Its: Director



**Exhibit B**  
**Form 8038-G**

**(Please Refer to Tab No. 3)**

**Exhibit C**

**Bond Insurer's Certificate**

**(Please refer to Tab No. 40)**

**Exhibit C-1**  
**Verification Report**

**(Please refer to Tab No. 46)**

**Exhibit D**

**Certifications Related to Escrow Investments**

**CERTIFICATION OF INVESTMENT PROVIDER**

August 13, 2003

Re: \$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (State College  
Facilities) 2003 Series A

In connection with the purchase of investments with the proceeds of the above-referenced bonds (the "Bonds"), as the provider of such investments (the "Provider"), I hereby certify that:

1. We are a party with no material financial interest in the Bonds, or, if we have such an interest, have been advised by the State of West Virginia Higher Education Policy Commission (the "Issuer") that it received at least three qualifying bids from parties with no such material financial interest;

2. We responded to the investment solicitation and quoted a yield, if the investment is a guaranteed investment contract, that included consideration of the Issuer's reasonably expected deposit and drawdown schedule for the amounts to be invested;

3. Based on our experience in the field and on all the facts and circumstances, the terms of the bid specifications are commercially reasonable;

4. The administrative costs reasonably expected to be paid to third parties in connection with the investment contract are as follows \_\_\_;

5. We did not review any other bids or potential bids before submitting our bid to provide the investments; and

6. We understand from the terms of the bid solicitation materials that submission of our bid is a representation by us that we did not consult with any other potential provider about our bid, that the bid was determined without regard to any other formal or informal agreement that we had or have with any other person, and that the bid was not submitted solely as a courtesy to the Issuer or any other person for purposes of satisfying the three bid requirement of the Treasury Regulations.

We understand that the information contained and referred to herein may be relied upon by bond counsel in rendering its opinion that interest on the Bonds is included in gross income.

LEHMAN BROTHERS HOLDINGS, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

## **Appendix I**

### **Definitions**

a. **Bond Counsel** shall mean Spilman Thomas & Battle, PLLC or any other law firm appointed by the issuer, having a national reputation in the field of municipal finance whose opinions are generally accepted by purchasers of municipal bonds.

b. **Bond Insurance** means the policy of municipal insurance pertaining to the Issue issued by the Bond Insurer insuring bonds of the Issue.

c. **Bond Insurer** means MBIA.

d. **Bond Year** shall mean each one year period that ends on the day selected by the issuer. If no day is selected by the issuer before the date that is five years from the Delivery Date, each Bond Year ends on the anniversary of the Delivery Date and on the final maturity date.

e. **Bond Yield** shall have the meaning set forth in Section III of the Tax Certificate.

f. **Certificate of Determination** means that document signed by the chairman of the Commission pursuant to the provisions of the Fourth Supplemental Resolution, dated August 1, 2003.

g. **Code** shall mean the Internal Revenue Code of 1986, as it may be amended from time to time.

h. **Commingled Fund** shall mean any fund or account containing both Gross Proceeds of an issue and amounts in excess of \$25,000 that are not Gross Proceeds of that issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account.

i. **Computation Date** shall mean each date on which the rebate for an issue is required to be computed under Regulations §1.148-3(e).

j. **Computation Date Credit** shall mean with respect to an issue a credit of \$1,000 against the rebatable arbitrage on (i) the last day of each Bond Year during which there are amounts allocated to Gross Proceeds of an issue subject to the Rebate Requirement; and (ii) the final maturity date for an issue.

k. **Computation Period** shall mean the period between Computation Dates. The first Computation Period begins on the date hereof and ends on the first Computation Date. Each succeeding Computation Period begins on the date immediately following the Computation Date and ends on the next Computation Date.

l. **Fixed Yield Issue** means an issue of obligations the Yield on which is fixed and determinable on the Issuance Date.

- m. Gross Proceeds** shall mean any Proceeds or Replacement Proceeds of an issue.
- n. Higher Yielding Investment** means any Investment Property that produces a Yield that (a) in the case of Investment Property allocable to Replacement Proceeds of an issue and Investment Property in a Refunding Escrow, is more than one thousandth of one percentage point (.000001) higher than the Yield on the applicable issue, and (b) for all other purposes of this Certificate, is more than one-eighth of one percentage point (.00125) higher than the Yield on the applicable issue.
- o. Initial Offering Price** shall mean the price at which the Bonds of the Issue were offered to the general public in a bona fide public offering.
- p. Investment Proceeds** shall mean any amounts actually or constructively received from investing Proceeds of an issue.
- q. Investment Property** shall mean any security or obligation within the meaning of Section 148(b)(2) of the Code, any annuity contract, any interest in any residential rental property for family units which is not located within the jurisdiction of the issuer, any "specified private activity bond" within the meaning of Section 57(a)(5)(C), and any other Investment-Type Property.
- r. Investment-Type Property** includes any property that is held principally as a passive vehicle for the production of income. A prepayment for property or services is Investment-Type Property if a principal purpose for prepaying is to receive an investment return from the time the prepayment is made until the time payment otherwise would be made. A prepayment is not Investment-Type Property if (i) the prepayment is made for a substantial business purpose other than investment return and the issuer has no commercially reasonable alternative to the prepayment; and (ii) prepayments on substantially the same terms are made by a substantial percentage of persons who are similarly situated to the issuer but who are not beneficiaries of tax-exempt financing.
- s. Issuance Costs or Costs of Issuance** means any financial, legal, administrative and other fees or costs incurred in connection with the issuance of an issue, including any underwriter's compensation withheld from the Issue Price.
- t. Issue Price** means in the circumstances applicable to the issue:
- (1) Public Offering. In the case of obligations actually offered to the general public in a bona fide public offering at the initial offering price for each maturity set forth in the Certificate of the Underwriter or Placement Agent attached to the Tax Compliance Certificate, the aggregate of the initial offering price for each maturity (including any Pre-Issuance Accrued Interest and original issue premium), which is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity, as of the Sale Date, was sold or reasonably expected to

be sold (other than to bond houses, brokers or other intermediaries). In the case of publicly offered obligations that are not described in the preceding sentence, Issue Price means the aggregate of the initial offering price to the public of each maturity set forth in the Certificate of the Underwriter or Placement Agent attached to the Tax Compliance Certificate, which is not more than the fair market value thereof as of the Sale Date, and at which initial offering price not less than 10% of the principal amount of each maturity was sold to the public.

(2) Private Placement. In the case of obligations sold by private placement, the aggregate of the prices, including any Pre-Issuance Accrued Interest and original issue premium, paid to the Issuer by the first purchaser(s) (other than bond houses, brokers or other intermediaries).

u. **Issuance Date** means the date of physical delivery of an issue by the Issuer in exchange for the purchase price of the issue.

v. **Minor Portion** means an amount equal to the lesser of \$100,000 or 5% of the Sale Proceeds of the issue.

w. **Multipurpose Issue** shall mean an issue that is used for two or more separate governmental purposes.

x. **Net Premium** shall mean the amount by which the premium amount of the Premium Bonds of the Issue issued in excess of their principal amount exceeds the original issue discount amount of the Original Issue Discount Bonds of the Issue issued below their principal amount.

y. **Net Sale Proceeds** shall mean Sale Proceeds, less the portion of those Sale Proceeds invested in a reasonably required reserve or replacement fund.

z. **Nonpurpose Investment** shall mean any Investment Property that is not a Purpose Investment.

aa. **Nonpurpose Payment** shall mean:

i. amounts actually or constructively paid to acquire a Nonpurpose Investment (or treated as paid to a Commingled Fund);

ii. in the case of a Nonpurpose Investment that is first allocated to an issue on a date after it is actually acquired (e.g., an investment that becomes allocable to Transferred Proceeds or to Replacement Proceeds) or that becomes subject to the Rebate Requirement on a date after it is actually acquired (e.g., an investment allocated to a reasonably required reserve or replacement fund for a construction issue at the end of the two year spending period), the Value of that investment on that date;

iii. in the case of a Nonpurpose Investment that was allocated to an issue at the end of the preceding Computation Period, the Value of that Nonpurpose Investment at the beginning of the Computation Period; and

iv. the Computation Date Credit.

**bb. Nonpurpose Receipt shall mean:**

i. amounts actually or constructively received from a nonpurpose Investment (including amounts treated as received from a Commingled Fund);

ii. in the case of a Nonpurpose Investment that ceases to be allocated to an issue before its disposition or redemption date (e.g., an investment that becomes allocable to Transferred Proceeds of another issue or that ceases to be allocable to the issue pursuant to the Universal Cap) or that ceases to be subject to the Rebate Requirement on a date earlier than its disposition or redemption date (e.g., an investment allocated to a fund initially subject to the Rebate Requirement but that subsequently qualifies as a bona fide Debt Service Account), the Value of that Nonpurpose Investment on that date; and

iii. in the case of a Nonpurpose Investment that is held at the end of a Computation Period, the Value of that Nonpurpose Investment at the end of that Computation Period.

**cc. Original Issue Discount Bonds** shall mean Bonds of the Issue which were sold to the general public at a price below their principal amount.

**dd. Plain Par Bond (or Plain Par Investment)** shall mean a bond (or an investment) (i) issued (or in the case of an investment acquired on a date other than the issue date, acquired) with not more than a de minimis amount (i.e., two percent of stated principal amount) of original issue discount or original issue premium; (ii) issued for a price that does not include accrued interest, other than Pre-Issuance Accrued Interest; (iii) that bears interest from the issue date at a single, stated, fixed rate or that is a variable rate debt instrument under section 1275 of the Code, in each case with interest payable at least annually; and (iv) that has a lowest stated redemption price that is not less than its outstanding principal amount.

**ee. Pre-Issuance Accrued Interest** shall mean amounts representing interest that has accrued on an obligation for a period of not greater than one year before its issue date but only if those amounts are paid within one year after the Delivery Date.

**ff. Premium Bonds** shall mean Bonds of the Issue which were sold to the general public at a price in excess of their principal amount.

**gg. Proceeds** shall mean any Sale Proceeds, Investment Proceeds and Transferred Proceeds of an issue.

**hh. Purpose Investment** shall mean an investment that is acquired to carry out the governmental purpose of an issue.

**ii. Qualified Administrative Costs** shall mean reasonable, direct administrative costs, other than carrying costs, such as separately stated brokerage and selling commissions that are comparable to those charged nongovernmental entities in transactions not involving tax-exempt bond proceeds, but not legal and accounting fees, recordkeeping, custody or similar costs. For a guaranteed investment contract, a broker's commission paid on behalf of either an issuer or the provider is not a Qualified Administrative Cost to the extent that the commission exceeds .05 percent of the amount reasonably expected to be invested per year.

**jj. Rebate Bond Yield** shall mean the Bond Yield unless:

**i.** the issuer enters into a hedge transaction (e.g., interest rate swap, interest rate cap or collar) which has not been taken into account in computing the Bond Yield, in which case the issuer shall consult with Bond Counsel for guidance in determining the Rebate Bond Yield; or

**ii.** the issuer, in a transaction that is separate and apart from the original sale of an issue, transfers, waives or modifies any right that is part of the terms of an issue (e.g., a sale of the call rights on an issue). The issuer shall consult with Bond Counsel prior to entering into any such transaction and for guidance in determining the Rebate Bond Yield.

**kk. Rebate Requirement** shall have the meaning ascribed thereto in Section 4 of the Tax Certificate.

**ll. Refunding Escrow** means one or more funds established as part of a single transaction, or a series of related transactions, containing Proceeds of a Refunding Issue and any other amounts to provide for payment of Debt Service on one or more Prior Issues.

**mm. Refunding Issue** means an issue the Proceeds of which are or are to be used to pay Debt Service on Refunded Bonds and to finance Issuance Costs, Pre-Issuance Accrued Interest or permitted capitalized interest, a reasonably required reserve or replacement fund, and similar costs of the Refunding Issue.

**nn. Regulations** means applicable Treasury Regulations.

**oo. Replacement Proceeds** shall mean amounts that have a sufficiently direct nexus to an issue to conclude that the amounts would have been used for that governmental purpose if the Proceeds of the issue were not used or to be used for that governmental purpose. For this purpose, governmental purposes include the expected use of amounts for the payment of debt service on a particular date. The mere availability or preliminary earmarking of amounts for a governmental purpose, however, does not in itself establish a sufficient nexus to cause those amounts to be Replacement Proceeds. Replacement Proceeds include, but are not limited to,

amounts held in a sinking fund or a pledged fund. For these purposes, an amount is pledged to pay principal of or interest on an issue if there is reasonable assurance that the amount will be available for such purposes in the event that the issuer encounters financial difficulties.

**pp. Resolution** means that certain General Resolution adopted by the Board of Directors of the State College System (a predecessor Board to the Commission) on September 9, 1992 (the "General Resolution"), as supplemented by the Fourth Supplemental Resolution adopted by the Commission on March 17, 2003 (the "Fourth Supplemental Resolution"), as further supplemented by the Fifth Supplemental Resolution adopted by the Commission on April 24, 2003 (the "Fifth Supplemental Resolution"), and as further supplemented by the Sixth Supplemental Resolution adopted by the Commission on June 4, 2003 (the "Sixth Supplemental Resolution"), authorizing the issuance of the 2003 Bonds.

**qq. Sale Date** means with respect to an issue (or a portion of an issue) the first date upon which there is a binding contract in writing with the Issuer for the sale and purchase of the issue (or of respective obligations of the issue if sold by the Issuer on different dates) on specific terms that are not later modified or adjusted in any material respect.

**rr. Sale Proceeds** shall mean any amounts actually or constructively received by the issuer from the sale of an issue, including amounts used to pay underwriters' discount or compensation and interest other than Pre-Issuance Accrued Interest.

**ss. Universal Cap** shall mean the value of all then outstanding bonds of the issue.

**tt. Value (of a Bond)** shall mean with respect to a bond issued with not more than two percent original issue discount or original issue premium, the outstanding principal amount, plus accrued unpaid interest; for any other bond, its present value.

**uu. Value (of an Investment)** shall have the following meaning in the following circumstances:

**i. General Rules.** Subject to the special rules in the following paragraph, an issuer may determine the value of an investment on a date using one of the following valuation methods consistently applied for all purposes relating to arbitrage and rebate with respect to that investment on that date:

(I) an investment with not more than two percent original issue discount or original issue premium may be valued at its outstanding stated principal amount, plus accrued unpaid interest;

(II) a fixed rate investment may be valued at its present value;

(III) an investment may be valued at its fair market value on a date.

**ii. Special Rules.** Yield restricted investments are to be valued at present value provided that (except for purposes of allocating transferred proceeds to an issue, for purposes of the universal cap and for investments in a commingled fund other than a bona fide Debt Service Account unless it is a certain commingled fund):

(I) an investment must be valued at its fair market value when it is first allocated to an issue, when it is disposed of and when it is deemed acquired or deemed disposed of, and provided further that;

(II) in the case of transferred proceeds, the value of a nonpurpose investment that is allocated to transferred proceeds of a refunding issue on a transfer date may not exceed the value of that investment on the transfer date used for purposes of applying the arbitrage restrictions to the refunded issue.

**vv. Variable Yield Issue** means any issue that is not a Fixed Yield Issue.

**ww. Yield** has the meaning assigned to it for purposes of Section 148 of the Code, and means that discount rate (stated as an annual percentage) that, when used in computing the present worth of all applicable unconditionally payable payments of Debt Service and all payments for a Qualified Guarantee, if any, paid and to be paid with respect to an obligation (paid and to be paid during and attributable to the Yield Period in the case of a Variable Yield Issue), produces an amount equal to (a) the Issue Price in the case of a Fixed Yield Issue or the present value of all the Issues Prices during the Yield Period in the case of a Variable Yield Issue, or (b) the purchase price for yield purposes in the case of Investment Property, all subject to the applicable methods of computation provided for under Section 148 of the Code, including variations from the foregoing. The Yield on Investment Property in which Proceeds or Replacement Proceeds of an issue are invested is computed on a basis consistent with the computation of Yield on that issue, including the same compounding interval (of not more than one year selected by the Issuer).

**xx. Yield Period** means, in the case of the first Yield Period, the period that commences on the Issuance Date and ends at the close of business on the first Computation Date and, in the case of each succeeding Yield Period, the period that begins immediately after the end of the immediately preceding Yield Period and ends at the close of business on the next succeeding Computation Date.

## Appendix II

### Rebate Requirement

(a) **Generally.** Section 148(f) of the Code requires that certain earnings on Nonpurpose Investments allocable to the Gross Proceeds of an issue be paid to the United States to prevent the bonds of the issue from being arbitrage bonds. The arbitrage that must be rebated is based on the difference between the amount actually earned on Nonpurpose Investments and the amount that would have been earned if those investments had a yield equal to the yield on the issue. As of any date, the rebate amount for an issue is the excess of the future value, as of that date, of all receipts on Nonpurpose Investments over the future value, as of that date, of all payments on Nonpurpose Investments. The future value of a payment or receipt at the end of any period is determined using the economic accrual method and equals the value of that payment or receipt when it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the yield on the issue, using the same compounding interval and financial conventions used to compute that yield.

(b) **Computation Dates (Other than the Final Computation Date).** For a fixed yield issue, an issuer may treat any date as a Computation Date provided such date is within five years of the Delivery Date. For a variable yield issue, an issuer may treat the last day of any Bond Year that is not later than five years from the Delivery Date as a Computation Date and may not change that treatment after the first rebate payment, if any, is due. After the first rebate payment, if any, is due, an issuer must consistently treat either the end of each Bond Year or the end of each fifth Bond Year as Computation Dates and may not change these Computation Dates after the first rebate payment, if any, is due.

(c) **Final Computation Date.** The date that an issue is discharged is the Final Computation Date. For an issue retired within three years of its Delivery Date, however, the Final Computation Date need not occur before the end of 8 months after the Delivery Date or during the period in which the issuer reasonably expects that any of the spending exceptions to the rebate requirement will apply to the issue.

(d) **Amount of Required Rebate.** For Computation Dates other than the Final Computation Date, an issuer must rebate an amount that when added to the future value, as of that Computation Date, of previous rebate payments made for the issue, equals at least 90 percent of the rebate amount as of that date. For the Final Computation Date, a final rebate payment must be paid in an amount that, when added to the future value of previous rebate payments made for the issue, equals 100 percent of the rebate amount as of that date.

(e) **Time and Manner of Payment.** Each rebate payment must be paid no later than 60 days after the Computation Date to which the payment relates. Any rebate payment paid within this 60-day period may be treated as paid on the Computation Date to which it relates. Each payment made pursuant to this Appendix III shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201, and shall be accompanied by Form 8038-T.

(f) **Penalty in Lieu of Loss of Tax Exemption.** The failure to pay the correct rebate amount when required will cause the bonds of the issue to be arbitrage bonds, unless the Commissioner determines that the failure was not caused by willful neglect and the issuer promptly pays a penalty to the United States. If no bond of the issue is a private activity bond (other than a qualified 501(c)(3) bond), the penalty equals 50 percent of the rebate amount not paid when required to be paid, plus interest on that amount. Otherwise, the penalty equals 100 percent of the rebate amount not paid when required to be paid, plus interest on that amount. Interest accrues at the underpayment rate under Section 6621 of the Code, beginning on the date the correct rebate amount is due and ending on the date 10 days before it is paid. The penalty is automatically waived if the rebate amount that the issuer failed to pay plus interest is paid within 180 days after discovery of the failure, unless the Commissioner determines that the failure was due to willful neglect, or the issue is under examination by the Commissioner at any time during the period beginning on the date the failure first occurred and ending on the date 90 days after the receipt of the rebate amount. Generally, extensions of this 180-day period and waivers of the penalty in other cases will be granted by the Commissioner only in unusual circumstances.

(g) **Recovery of Overpayment of Rebate.** An issuer may recover an overpayment of a rebate amount for an issue of bonds by establishing to the satisfaction of the Commissioner that the overpayment occurred. An overpayment is the excess of the amount paid to the United States for an issue under Section 148 over the sum of the rebate amount for the issue as of the most recent Computation Date and all amounts that are otherwise required to be paid under Section 148 as of the date the recovery is requested. Notwithstanding the preceding sentence, an overpayment may be recovered only to the extent that a recovery on the date that it is first requested would not result in an additional rebate amount if that date were treated as a Computation Date. Furthermore, except for overpayments in certain limited circumstance, an overpayment of less than \$5,000 may not be recovered before the Final Computation Date.

(h) **Recordkeeping Requirement.** An issuer must retain records of the determination of its Rebate Requirement until six years after the retirement of the last obligation of the issue.

## Appendix III

### Spending Exceptions to Rebate

(a) **Generally.** All, or certain discrete portions, of an issue are treated as meeting the Rebate Requirement if one or more of the spending exceptions set forth in this Appendix are satisfied. Use of the spending exceptions is not mandatory, except that where an issuer elects to apply the 1-1/2 percent penalty (as described below) the issuer must apply that penalty to the Construction Issue. An issuer may apply the Rebate Requirement to an issue that otherwise satisfies a spending exception. Special definitions relating to the spending exceptions are contained in section (h) of this Appendix.

Where several obligations that otherwise constitute a single issue are used to finance two or more separate governmental purposes, the issue constitutes a “multipurpose issue” and the bonds, as well as their respective proceeds, allocated to each separate purpose may be treated as separate issues for purposes of the spending exceptions. In allocating an issue among its several separate governmental purposes, “common costs” are generally not treated as separate governmental purposes and must be allocated ratably among the discrete separate purposes unless some other allocation method more accurately reflects the extent to which any particular separate discrete purpose enjoys the economic benefit (or bears the economic burden) of the certain common costs (e.g., a newly funded reserve for a parity issue that is partially new money and partially a refunding for savings on Original Bonds).

Separate purposes include refunding a separate prior issue, financing a separate Purpose Investment (e.g., a separate loan), financing a Construction Issue, and any clearly discrete governmental purpose reasonably expected to be financed by the issue. In addition, as a general rule, all integrated or functionally related capital projects qualifying for the same initial temporary period (e.g., three years) are treated as having a single governmental purpose. Finally, separate purposes may be combined and treated as a single purpose if the proceeds are eligible for the same initial temporary period (e.g., advance refundings of several separate prior issues could be combined, or several non-integrated and functionally unrelated capital projects such as airport runway improvements and a water distribution system).

The spending exceptions described in this Appendix are applied separately to each separate issue component of a multipurpose issue unless otherwise specifically noted.

(b) **Six-Month Exception.** An issue is treated as meeting the Rebate Requirement under this exception if (i) the gross proceeds of the issue are allocated to expenditures for the governmental purposes of the issue within the six-month period beginning on the issue date (the “**six-month spending period**”) and (ii) the Rebate Requirement is met for amounts not required to be spent within the six-month spending period (excluding earnings on a bona fide Debt Service Account). For purposes of the six-month exception, “gross proceeds” means Gross Proceeds other than amounts (i) in a bona fide Debt Service Account, (ii) in a reasonably required reserve or replacement fund, (iii) that, as of the issue date, are not reasonably expected to be Gross Proceeds but that become Gross Proceeds after the end of the six-month spending period, (iv) that represent Sale Proceeds or Investment Proceeds derived from

payments under any Purpose Investment of the issue and (v) that represent repayments of grants (as defined in Treasury Regulation Section 1.148-6(d)(4)) financed by the issue. In the case of an issue no bond of which is a private activity bond (other than a qualified 501(c)(3) bond) or a tax or revenue anticipation bond, the six-month spending period is extended for an additional six months for the portion of the proceeds of the issue which are not expended within the six-month spending period if such portion does not exceed the lesser of five percent of the Proceeds of the issue or \$100,000.

(c) **18-Month Exception.** An issue is treated as meeting the Rebate Requirement under this exception if all of the following requirements are satisfied:

(i) the gross proceeds are allocated to expenditures for a governmental purpose of the issue in accordance with the following schedule (the “**18-month expenditure schedule**”) measured from the issue date: (A) at least 15 percent within six months, (B) at least 60 percent within 12 months and (C) 100 percent within 18 months;

(ii) the Rebate Requirement is met for all amounts not required to be spent in accordance with the 18-month expenditure schedule (other than earnings on a bona fide Debt Service Account); and

(iii) all of the gross proceeds of the issue qualify for the initial temporary period under Treasury Regulation Section 1.148-2(e)(2).

For purposes of the 18-month exception, “gross proceeds” means Gross Proceeds other than amounts (i) in a bona fide Debt Service Account, (ii) in a reasonably required reserve or replacement fund, (iii) that, as of the issue date, are not reasonably expected to be Gross Proceeds but that become Gross Proceeds after the end of the 18-month expenditure schedule, (iv) that represent Sale Proceeds or Investment Proceeds derived from payments under any Purpose Investment of the issue and (v) that represent repayments of grants (as defined in Treasury Regulation Section 1.148-6(d)(4)) financed by the issue. In addition, for purposes of determining compliance with the first two spending periods, the investment proceeds included in gross proceeds are based on the issuer’s reasonable expectations as of the issue date rather than the actual Investment Proceeds; for the third, final period, actual Investment Proceeds earned to date are used in place of the reasonably expected earnings. An issue does not fail to satisfy the spending requirement for the third spending period above as a result of a Reasonable Retainage if the Reasonable Retainage is allocated to expenditures within 30 months of the issue date. The 18-month exception does not apply to an issue any portion of which is treated as meeting the Rebate Requirement as a result of satisfying the two-year exception.

(d) **Two-Year Exception.** A Construction Issue is treated as meeting the Rebate Requirement for Available Construction Proceeds under this exception if those proceeds are allocated to expenditures for governmental purposes of the issue in accordance with the following schedule (the “**two-year expenditure schedule**”), measured from the issue date:

(i) at least 10 percent within six months;

- (ii) at least 45 percent within one year;
- (iii) at least 75 percent within 18 months; and
- (iv) 100 percent within two years.

An issue does not fail to satisfy the spending requirement for the fourth spending period above as a result of unspent amounts for Reasonable Retainage if those amounts are allocated to expenditures within three years of the issue date.

**(e) Expenditures for Governmental Purposes of the Issue.** For purposes of the spending exceptions, expenditures for the governmental purposes of an issue include payments for interest, but not principal, on the issue, and for principal or interest on another issue of obligations. The preceding sentence does not apply for purposes of the 18-month and two-year exceptions if those payments cause the issue to be a refunding issue.

**(f) De Minimis Rule.** Any failure to satisfy the final spending requirement of the 18-month exception or the two-year exception is disregarded if the issuer exercises due diligence to complete the project financed and the amount of the failure does not exceed the lesser of three percent of the issue price of the issue or \$250,000.

**(g) Elections Applicable to the Two-Year Exception.** An issuer may make one or more of the following elections with respect to the two-year spending exception:

**(1) Earnings on Reasonably Required Reserve or Replacement Fund.** An issuer may elect on or before the issue date to exclude from Available Construction Proceeds the earnings on any reasonably required reserve or replacement fund. If the election is made, the Rebate Requirement applies to the excluded amounts from the issue date.

**(2) Actual Facts.** For the provisions relating to the two-year exception that apply based on the issuer's reasonable expectations, an issuer may elect on or before the issue date to apply all of those provisions based on actual facts. This election does not apply for purposes of determining whether an issue is a Construction Issue if the 1-1/2 percent penalty in lieu of rebate election described in subsection (g)(4) of this Appendix is made.

**(3) Separate Issue.** For purposes of the two-year exception, if any proceeds of an issue are to be used for Construction Expenditures, the issuer may elect on or before the issue date to treat the portion of the issue that is not a refunding issue as two, and only two, separate issues, if (i) one of the separate issues is a Construction Issue, (ii) the issuer reasonably expects, as of the issue date, that such Construction Issue will finance all of the Construction Expenditures to be financed by the issue and (iii) the issuer makes an election to apportion the issue in which it identifies the amount of the issue price of the issue allocable to the Construction Issue.

**(4) Penalty in Lieu of Rebate.** An issuer of a Construction Issue may irrevocably elect on or before the issue date to pay a penalty (the “**1-1/2 percent penalty**”) to the United States in lieu of the obligation to pay the rebate amount on Available Construction Proceeds upon failure to satisfy the spending requirements of the two-year expenditure schedule. The 1-1/2 percent penalty is calculated separately for each spending period, including each semiannual period after the end of the fourth spending period, and is equal to 1.5 percent times the underexpended proceeds as of the end of the spending period. For each spending period, underexpended proceeds equal the amount of Available Construction Proceeds required to be spent by the end of the spending period, less the amount actually allocated to expenditures for the governmental purposes of the issue by that date. The 1-1/2 percent penalty must be paid to the United States no later than 90 days after the end of the spending period to which it relates. The 1-1/2 percent penalty continues to apply at the end of each spending period and each semiannual period thereafter until the earliest of the following: (i) the termination of the penalty under Treasury Regulation Section 1.148-7(l), (ii) the expenditure of all of the Available Construction Proceeds or (iii) the last stated final maturity date of bonds that are part of the issue and any bonds that refund those bonds. If an issue meets the exception for Reasonable Retainage except that all retainage is not spent within three years of the issue date, the issuer must pay the 1-1/2 percent penalty to the United States for any Reasonable Retainage that was not so spent as of the close of the three-year period and each later spending period.

**(h) Special Definitions Relating to Spending Exceptions.**

**(1) Available Construction Proceeds** shall mean, with respect to an issue, the amount equal to the sum of the issue price of the issue, earnings on such issue price, earnings on amounts in any reasonably required reserve or replacement fund not funded from the issue (subject to the election referred to in section (g)(1) of this Appendix) and earnings on all of the foregoing earnings, less the amount of such issue price in any reasonably required reserve or replacement fund and less the issuance costs financed by the issue. For purposes of this definition, earnings include earnings on any Tax-exempt Bond. Unless the issuer otherwise elects as described in Section (g)(2) of this Appendix, for the first three spending periods of the two-year expenditure schedule described in Treasury Regulation Section 1.148-7(e), Available Construction Proceeds include the amount of future earnings that the issuer reasonably expected as of the issue date. For the fourth spending period described in Treasury Regulation Section 1.148-7(e) and any subsequent date, as of which computations are made, Available Construction Proceeds include the actual earnings received to that date and earnings expected as of that date to be earned in the future. Earnings on any reasonably required reserve or replacement fund are Available Construction Proceeds only if the issuer did not elect to exclude such earnings pursuant to the election described in paragraph (g)(1) of this Appendix and only to the extent that those earnings accrue before the earlier of (i) the date construction is substantially completed or (ii) the date that is two years after the issue date. For this purpose, construction may be treated as substantially completed when the issuer abandons construction or when at least 90 percent of the total costs of the construction that the issuer reasonably expects as of such date will be financed with proceeds of the issue have been allocated to expenditures. If only a portion of the

construction is abandoned, the date of substantial completion is the date that the non-abandoned portion of the construction is substantially completed.

**(2) Construction Expenditures** shall mean capital expenditures (as defined in Treasury Regulation Section 1.150-1) that are allocable to the cost of Real Property or Constructed Personal Property. Construction Expenditures do not include expenditures for acquisitions of interests in land or other existing Real Property.

**(3) Construction Issue** shall mean any issue that is not a refunding issue if (i) the issuer reasonably expects, as of the issue date, that at least 75 percent of the Available Construction Proceeds of the issue will be allocated to Construction Expenditures for property owned by a governmental unit or a 501(c)(3) organization and (ii) any private activity bonds that are part of the issue are qualified 501(c)(3) bonds or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

**(4) Constructed Personal Property** shall mean Tangible Personal Property or Specially Developed Computer Software if (i) a substantial portion of the property is completed more than six months after the earlier of the date construction or rehabilitation commenced and the date the issuer entered into an acquisition contract; (ii) based on the reasonable expectations of the issuer, if any, or representations of the person constructing the property, with the exercise of due diligence, completion of construction or rehabilitation (and delivery to the issuer) could not have occurred within that six-month period; and (iii) if the issuer itself builds or rehabilitates the property, not more than 75 percent of the capitalizable cost is attributable to property acquired by the issuer.

**(5) Real Property** shall mean land and improvements to land, such as buildings or other inherently permanent structures, including interests in real property. For example, Real Property includes wiring in a building, plumbing systems, central heating or air-conditioning systems, pipes or ducts, elevators, escalators installed in a building, paved parking areas, roads, wharves and docks, bridges, and sewage lines.

**(6) Reasonable Retainage** shall mean an amount, not to exceed five percent of (i) Available Construction Proceeds as of the end of the two-year expenditure schedule (in the case of the two-year exception to the Rebate Requirement) or (ii) Net Sale Proceeds as of the end of the 18-month expenditure schedule (in the case of the 18-month exception to the Rebate Requirement), that is retained for reasonable business purposes relating to the property financed with the issue. For example, a Reasonable Retainage may include a retention to ensure or promote compliance with a construction contract in circumstances in which the retained amount is not yet payable, or in which the issuer reasonably determines that a dispute exists regarding completion or payment.

**(7) Specially Developed Computer Software** shall mean any programs or routines used to cause a computer to perform a desired task or set of tasks, and the documentation required to describe and maintain those programs, provided that the software is

specially developed and is functionally related and subordinate to Real Property or other Constructed Personal Property.

**(8) Tangible Personal Property** shall mean any tangible property other than Real Property, including interests in tangible personal property. For example, Tangible Personal Property includes machinery that is not a structural component of a building, subway cars, fire trucks, automobiles, office equipment, testing equipment, and furnishings.

**(i) Special Rules Relating to Refundings.**

**(1) Transferred Proceeds.** In the event that a prior issue that might otherwise qualify for one of the spending exceptions is refunded, then for purposes of applying the spending exceptions to the prior issue, proceeds of the prior issue that become transferred proceeds of the refunding issue continue to be treated as unspent proceeds of the prior issue; if such unspent proceeds satisfy the requirements of one of the spending exceptions then they are not subject to rebate either as proceeds of the prior issue or of the refunding issue. Generally, the only spending exception applicable to refunding issues is the six-month exception. In applying the six-month exception to a refunding of a prior issue, only transferred proceeds of the refunding issue from a taxable prior issue and other amounts excluded from the definition of gross proceeds of the prior issue under the special definition of gross proceeds contained in section (b) above are treated as gross proceeds of the refunding issue and so are subject to the six-month exception applicable to the refunding issue.

**(2) Series of Refundings.** In the event that an issuer undertakes a series of refundings for a principal purpose of exploiting the difference between taxable and tax-exempt interest rates, the six-month spending exception is measured for all issues in the series commencing on the date the first bond of the series is issued.

**(j) Elections Applicable to Pool Bonds.** An issuer of a pooled financing issue can elect to apply the spending exceptions separately to each loan from the date such loan is made or, if earlier, on the date one year after the date the pool bonds are issued. In the event this election is made, no spending exceptions are available and the normal Rebate Requirement applies to Gross Proceeds prior to the date on which the applicable spending periods begin. In the event this election is made, the issuer may also elect to make all elections applicable to the two-year spending exception, described in section (g) above, separately for each loan; any such elections that must ordinarily be made prior to the issue date must then be made by the issuer before the earlier of the date the loan is made or one year after the issue date.

## Appendix IV

### Allocation and Accounting Rules

(a) **General Rule.** An issuer may use any reasonable, consistently applied accounting method to account for Gross Proceeds, investments and expenditures of an issue. An accounting method is “consistently applied” if it is applied uniformly within a Fiscal Period and between Fiscal Periods to account for Gross Proceeds of an issue and any amounts that are in a commingled fund.

(b) **Allocation of Gross Proceeds to an Issue.** Amounts are allocable to only one issue at a time as Gross Proceeds. Amounts cease to be allocated to an issue as Proceeds only when those amounts (i) are allocated to an expenditure for a governmental purpose; (ii) are allocated to transferred proceeds of another issue of obligations; or (iii) cease to be allocated to that issue at retirement of the issue or under the Universal Cap.

(c) **Allocation of Gross Proceeds to Investments.** Upon the purchase or sale of a Nonpurpose Investment, Gross Proceeds of an issue are not allocated to a payment for that Nonpurpose Investment in an amount greater than, or to a receipt from that Nonpurpose Investment in an amount less than, the fair market value of the Nonpurpose Investment as of the purchase or sale date. The fair market value of a Nonpurpose Investment is adjusted to take into account Qualified Administrative Costs allocable to the investment. Thus, Qualified Administrative Costs increase the payments for, or decrease the receipts from, a Nonpurpose Investment.

(d) **Allocation of Gross Proceeds to Expenditures.** Reasonable accounting methods for allocating funds from different sources to expenditures for the same governmental purpose include a “specific tracing” method, a “gross-proceeds-spent-first” method, a “first-in-first-out” method or a ratable allocation method, so long as the method used is consistently applied. An allocation of Gross Proceeds of an issue to an expenditure must involve a current outlay of cash for a governmental purpose of the issue. A current outlay of cash means an outlay reasonably expected to occur not later than five banking days after the date as of which the allocation of Gross Proceeds to the expenditure is made.

(e) **Commingled Funds.** Any fund or account that contains both Gross Proceeds of an issue and amounts in excess of \$25,000 that are not Gross Proceeds of that issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of the funds deposited therein, constitutes a “**commingled fund.**” All payments and receipts (including deemed payments and receipts) on investments held by a commingled fund must be allocated (but not necessarily distributed) among each different source of funds invested in the commingled fund in accordance with a consistently applied, reasonable ratable allocation method. Reasonable ratable allocation methods include, without limitation, methods that allocate payments and receipts in proportion to either (i) the average daily balances of the amounts in the commingled fund from each different source of funds during any consistent time period within its fiscal year, but at least quarterly (the “**Fiscal Period**”); or (ii) the average of the

beginning and ending balances of the amounts in the commingled fund from each different source of funds for a Fiscal Period that does not exceed one month.

Funds invested in the commingled fund may be allocated directly to expenditures for governmental purposes pursuant to a reasonable consistently applied accounting method. If a ratable allocation method is used to allocate expenditures from the commingled fund, the same ratable allocation method must be used to allocate payments and receipts on investments in the commingled fund.

Generally a commingled fund must treat all its investments as if sold at fair market value either on the last day of the fiscal year or on the last day of each Fiscal Period. The net gains or losses from these deemed sales of investments must be allocated to each different source of funds invested in the commingled fund during the period since the last allocation. This mark-to-market requirement does not apply if (i) the remaining weighted average maturity of all investments held by a commingled fund during a particular fiscal year does not exceed 18 months, and the investments held by the commingled fund during that fiscal year consist exclusively of obligations; or (ii) the commingled fund operated exclusively as a reserve fund, sinking fund or replacement fund for two or more issues of the same issuer. Subject to the Universal Cap limitation, and the principle that amounts are allocable to only one issue at a time as Gross Proceeds, investments held by a commingled fund that serves as a common reserve fund, replacement fund or sinking fund must be allocated ratably among the issues served by the commingled fund in proportion to either (i) the relative values of the bonds of those issues; (ii) the relative amounts of the remaining maximum annual debt service requirements on the outstanding principal amounts of those issues; or (iii) the relative original stated principal amounts of the outstanding issues.

(f) **Universal Cap.** Amounts that would otherwise be Gross Proceeds allocable to an issue are allocated (and remain allocated) to the issue only to the extent that the Value of the Nonpurpose Investments allocable to those Gross Proceeds does not exceed the Value of all outstanding bonds of the issue. Nonpurpose Investments allocated to Gross Proceeds in a bona fide Debt Service Account for an issue are not taken into account in determining the Value of the Nonpurpose Investments, and those Nonpurpose Investments remain allocated to the issue. To the extent that the Value of the Nonpurpose Investments allocable to the Gross Proceeds of an issue exceed the Value of all outstanding bonds of that issue, an issuer should seek the advice of Bond Counsel for the procedures necessary to comply with the Universal Cap.

(g) **Expenditure for Working Capital Purposes.** Subject to certain exceptions, the Proceeds of an issue may only be allocated to "working capital expenditures" as of any date to the extent that those expenditures exceed "available amounts" as of that date (i.e., "proceeds-spent-last").

For purposes of this section, "working capital expenditures" include all expenditures other than "capital expenditures." "Capital expenditures" are costs of a type properly chargeable (or chargeable upon proper election) to a capital account under general Federal income tax principles. Such costs include, for example, costs incurred to acquire,

construct, or improve land, buildings and equipment having a reasonably expected useful life in excess of one year. Thus, working capital expenditures include, among other things, expenditures for current operating expenses and debt service.

For purposes of this section, "available amount" means any amount that is available to an issuer for working capital expenditure purposes of the type financed by the issue. Available amount excludes Proceeds of the issue but includes cash, investments and other amounts held in accounts or otherwise by an issuer for working capital expenditures of the type being financed by the issue without legislative or judicial action and without a legislative, judicial, or contractual requirement that those amounts be reimbursed. Notwithstanding the preceding sentence, a "reasonable working capital reserve" is treated as unavailable. A working capital reserve is reasonable if it does not exceed five percent of the actual working capital expenditures of an issuer in the fiscal year before the year in which the determination of available amounts is made. For purpose of the preceding sentence only, in determining the working capital expenditures of an issuer for a prior fiscal year, any expenditures (whether capital or working capital expenditures) that are paid out of current revenues may be treated as working capital expenditures.

The proceeds-spent-last requirement does not apply to expenditures to pay (i) any qualified administrative costs; (ii) fees for qualified guarantees of the issue or payments for a qualified hedge for the issue; (iii) interest on the issue for a period commencing on the Delivery Date and ending on the date that is the later of three years from the Delivery Date or one year after the date on which the financed project is placed in service; (iv) the United States for yield reduction payments (including rebate payments) or penalties for the failure to meet the spend down requirements associated with certain spending exceptions to the rebate requirement; (v) costs, other than those described in (i) through (iv) above, that do not exceed five percent of the Sale Proceeds of an issue and that are directly related to capital expenditures financed by the issue (e.g., initial operating expenses for a new capital project); (vi) principal or interest on an issue paid from unexpected excess sale or investment proceeds; (vii) principal or interest on an issue paid from investment earnings on a reserve or replacement fund that are deposited in a bona fide Debt Service Account; and (viii) principal, interest, or redemption premium on a prior issue and, for a crossover refunding issue, interest on that issue. Notwithstanding the preceding paragraph, the exceptions described above do not apply if the allocation merely substitutes Gross Proceeds for other amounts that would have been used to make those expenditures in a manner that gives rise to Replacement Proceeds.

## Appendix V

### Value of Investments

(a) **Fair Market Value.** The fair market value of an investment is the price at which a willing buyer would purchase the investment from a willing seller in a bona fide arm's-length transaction. Fair market value generally is determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding (i.e., the trade date rather than the settlement date). An investment that is not of a type traded on an established securities market, within the meaning of Section 1273 of the Code, is rebuttably presumed to be acquired or disposed of for a price that is not equal to its fair market value. The fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price.

(b) **Certificates of Deposit.** A certificate of deposit that has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal shall be treated as purchased at its fair market value if the yield on the certificate of deposit is not less than (i) the yield on reasonably comparable direct obligations of the United States; and (ii) the highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

(c) **Guaranteed Investment Contracts and Defeasance Escrows.** The purchase price of a guaranteed investment contract and a yield restricted defeasance escrow will be treated as its fair market value if:

(1) the purchaser makes a bona fide solicitation for the purchase of the investment;

(2) the purchaser receives at least three bids from providers that the purchaser solicited under the bona fide solicitation for the investment and that have no material financial interest in the Bonds (e.g., a lead underwriter during the period ending 15 days after the issuance of the Bonds, a financial advisor with respect to the investment, or a related person) and at least one of such bids is from a reasonably competitive provider (as defined below);

(3) if the purchaser uses an agent to conduct the bidding process, the agent did not bid on the investment;

(4) the winning bid—

(i) in the case of a guaranteed investment contract, is the highest yielding bona fide bid (net of broker's fees); and

(ii) in the case of a yield restricted defeasance escrow, (A) is the lowest cost bona fide bid (including broker's fees), determined either for the entire portfolio or on an investment-by-investment basis and determined taking into account any payments received by the purchaser

from a provider for a guaranteed investment contract for a yield restricted defeasance escrow acquired under these bidding procedures; and (B) has a cost (including any broker's fees) that is not greater than the cost of the most efficient portfolio of State and Local Government Series Securities ("SLGS"), determined at the time that the bids for the investment are required to be submitted (unless the sale of SLGS has been suspended as of such time, in which case this requirement shall not apply); and

(5) the provider of the guaranteed investment contract certifies the administrative costs that it is paying (or expects to pay) to third parties in connection with the guaranteed investment contract;

**(d) Bona Fide Solicitation.** For purposes of paragraph (c) above, a bona fide solicitation is a solicitation that satisfies each of the following requirements:

(1) the bid specifications are provided, in writing and setting forth all of the material terms of the bid, to potential providers in a timely manner;

(2) the terms of the bid specifications must be commercially reasonable (that is, there must be a legitimate governmental purpose for each of the terms other than to increase the purchase price or reduce the yield) and, for a guaranteed investment contract, must include the purchaser's reasonably expected deposit and drawdown schedule;

(3) all potential providers have an equal opportunity to bid (e.g., no "last looks");

(4) solicitations are made of at least three reasonably competitive providers (defined as providers having an established industry reputation as a competitive provider of the type of investment being purchased); and

(5) the specifications include a statement notifying potential providers that the submission of a bid is a representation that the provider did not consult with any other provider about its bid, that the bid was determined without regard to any other agreement that the provider has with the purchaser or any other person, and that the bid is not being submitted solely as a courtesy to the purchaser or any other person for purposes of satisfying the requirements of paragraph (c) or (d) of this section 3.

The issuer shall maintain records adequate to determine the fair market value of the investments described above. With respect to a guaranteed investment contract or a yield restricted defeasance escrow the issuer shall maintain:

(i) a copy of the investment contract, purchase agreement, or confirmation,

(ii) the receipt or other record of the amount actually paid for the investments, including records of any administrative costs paid by the purchaser and the certification of the investment provider of the administrative costs paid to third parties in connection with the investment,

(iii) for each bid submitted, the name of the person and entity bidding, the term and date of the bid, and the bid results,

(iv) the bid solicitation form and an explanation of any deviations in the terms of the investment from the solicitation form, and

(v) for a yield restricted defeasance escrow, the cost of the most efficient portfolio of SLGS (as defined below), determined at the time that the bids were required to be submitted under the terms of the bid specifications.

The issuer shall retain records of the determinations required until six years after the Final Computation Date or for such other period as the Treasury Department may, by regulations or rulings, provide.

## Appendix VI

### Transferred Proceeds

**(a) Operating Rule for Separating a Prior Issue into its Refunded and Unrefunded Portions.** An issue of obligations, any portion of which is to be refunded (the "**Prior Issue**") by another issue (a "**Refunding Issue**"), may be separated into two pieces - the refunded piece of the Prior Issue (the "**Refunded Issue**") and the unrefunded piece of the Prior Issue (the "**Unrefunded Issue**"). To the extent that the Prior Issue is so separated, the Refunded Issue and Unrefunded Issue are treated as separate issues. The Refunded Issue is based on a fraction (i) the numerator of which is the principal amount of the Prior Issue to be paid with proceeds of the Refunding Issue and (ii) the denominator of which is the outstanding principal amount of the Prior Issue, each determined as of the issue date of the Refunding Issue. To the extent that a Prior Issue is partially refunded, the unspent proceeds of that Prior Issue are allocated ratably, as of the issue date of the Refunding Issue, between the Refunded Issue and the Unrefunded Issue and the investments allocable to those unspent proceeds are allocated in the manner required for the allocation of investments to Transferred Proceeds discussed in paragraph (c) below.

**(b) In General.** On each date that Proceeds of a Refunding Issue discharge any of the outstanding principal amount of a Prior Issue (a "**Transfer Date**"), proceeds of the Prior Issue which are unexpended on such date may become transferred proceeds of the Refunding Issue ("**Transferred Proceeds**") and cease to be proceeds of the Prior Issue. On a Transfer Date, subject to paragraph (c) below, the amount of unspent proceeds of the Prior Issue that become Transferred Proceeds of the Refunding Issue is an amount equal to the total unspent proceeds of the Prior Issue on the Transfer Date multiplied by a fraction - (i) the numerator of which is the principal amount of the Prior Issue being discharged with proceeds of the Refunding Issue on the Transfer Date; and (ii) the denominator of which is the total outstanding principal amount of the Prior Issue on the date immediately before the Transfer Date. For purpose of this section, "**principal amount**" means, in reference to a Plain Par Bond, its stated principal amount, and in reference to any other bond, its present value.

**(c) Allocation.** Investments of proceeds of the Prior Issue are allocated to the Transferred Proceeds by consistent application of either the ratable allocation method or the representative allocation method (except that proceeds of a Prior Issue that are held in a refunding escrow for another issue are allocated to Transferred Proceeds under the ratable allocation method). Under the ratable allocation method, a ratable portion of each investment of proceeds of the Prior Issue is allocated to Transferred Proceeds. Under the representative allocation method, representative portions of the portfolio of investments of proceeds of the Prior Issue are allocated to the Transferred Proceeds. Whether a portion is representative is based on all the facts and circumstances, including, without limitation, whether the current yields, maturities and current unrealized gains and losses on the particular allocated investments are reasonably comparable to those of the unallocated investments in the aggregate. In addition, if a portion of Nonpurpose Investments is otherwise representative, it is within the issuer's discretion to allocate the portion from whichever source of funds it deems appropriate.

**(d) Reallocation.** To the extent that the Value of the Nonpurpose Investments of the Proceeds of the Refunding Issue exceeds the Value of all outstanding bonds that are a part of the Refunding Issue on a Transfer Date, such excess is reallocated back to the issue from which it transferred on that same date to the extent of the unused Universal Cap on that Prior Issue. If the value of all Nonpurpose Investments allocated to the Gross proceeds of an issue exceeds the Universal Cap on any Universal Cap computation date, Nonpurpose Investments allocable to Gross Proceeds necessary to eliminate that excess cease to be allocated to the issue in the following order of priority: (A) Nonpurpose Investments allocable to Replacement Proceeds; (B) Nonpurpose Investments allocable to Transferred Proceeds; and (C) Nonpurpose Investments allocable to Sale Proceeds and Investment Proceeds. The Value of Nonpurpose Investments and the Value of outstanding bonds shall be determined as provided in the Appendix entitled "General Definitions".

**(e) Application.** On the Transfer Date, the issuer shall value all Investment Property in which unspent proceeds of the Prior Issue are then invested, shall compute the amounts and sources of Transferred Proceeds, and shall comply with all applicable arbitrage yield restrictions and rebate requirements thereafter applicable to such amounts. To the extent that Nonpurpose Investments cease to be allocated to the Refunding Issue, other Nonpurpose Investments are so allocated, to the extent of the unused Universal Cap.





Part I Reporting Authority If Amended Return, check here

1 Issuer's name WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
2 Issuer's employer identification number 55-0517092
3 Number and street (or P.O. box if mail is not delivered to street address) 1018 KANAWHA BLVD., EAST
4 Report number 3 01
5 City, town, or post office, state, and ZIP code CHARLESTON WV 25301
6 Date of issue August 13, 2003
7 Name of issue State of West Virginia Higher Education Policy Commission (College Facilities) 2003 Series A
8 CUSIP number 95639RA18
9 Name and title of officer or legal representative whom the IRS may call for more information John F. Allevato, Esq.
10 Telephone number of officer or legal representative 304-340-3885

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule

11 Education 22,968,284.94
12 Health and hospital
13 Transportation
14 Public safety
15 Environment (including sewage bonds)
16 Housing
17 Utilities
18 Other. Describe
19 If obligations are TANs or RANs, check box
20 If obligations are in the form of a lease or installment sale, check box

Part III Description of Obligations. (Complete for the entire issue for which this form is being filed.)

Table with 5 columns: (a) Final maturity date, (b) Issue price, (c) Stated redemption price at maturity, (d) Weighted average maturity, (e) Yield. Row 21: 04/01/2012, \$ 22,968,284.94, \$ 22,160,000.00, 4.275 years, 3.242345 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

Table with 2 columns: Description, Amount. Rows 22-30 detailing proceeds used for accrued interest, bond issuance costs, credit enhancement, etc. Total (line 29) is 22,941,741.40.

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

31 Enter the remaining weighted average maturity of the bonds to be currently refunded 4.469 years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded
33 Enter the last date on which the refunded bonds will be called October 1, 2003
34 Enter the date(s) the refunded bonds were issued November 13, 1992

Part VI Miscellaneous

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) N/A
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions) none
b Enter the final maturity date of the guaranteed investment contract
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units N/A
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box and enter the name of the issuer and the date of the issue
38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box
39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box
40 If the issuer has identified a hedge, check box

Sign Here Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Signature of issuer's authorized representative J. Michael Mullen Date 8.13.03 Type or print name and title Chancellor



Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(COLLEGE FACILITIES), 2003 SERIES A

No. R-1

INTEREST RATE                      MATURITY DATE                      BOND DATE                      CUSIP NO.  
2.000%                      April 1, 2004                      August 1, 2003                      95639RAA7

REGISTERED OWNER:      Cede & Co.

PRINCIPAL AMOUNT:      \$3,635,000 (THREE MILLION SIX HUNDRED THIRTY FIVE THOUSAND DOLLARS)

KNOW ALL MEN BY THESE PRESENTS that the HIGHER EDUCATION POLICY COMMISSION (the "Commission"), a commission of the state of West Virginia (the "State"), created and existing under the Constitution and laws of the State, for value received, hereby acknowledges itself obligated to, and promises to pay, but only out of the sources pledged for that purpose as hereinafter provided, and not otherwise, to the Registered Owner stated above, or registered assigns, on the Maturity Date stated above, the Principal Amount stated above, and to pay interest on the unpaid balance of said Principal Amount from the Interest Payment Date (as described below) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date stated above, at the Interest Rate per annum stated above, on October 1, 2003, and semiannually thereafter on October 1 and April 1 of each year (each an "Interest Payment

Date”), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter described Resolution.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by Bank One, N.A., as paying agent (the “Paying Agent”), to the Registered Owner hereof as of the applicable Record Date (15 days before the interest payment dates of October 1 and April 1) at the address of such Registered Owner as it appears on the registration books of the Commission maintained by Bank One, N.A., as registrar (in such capacity, the “Registrar”), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to the bank account number on file with the Paying Agent on or prior to the applicable Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the principal corporate trust office of the Paying Agent in Charleston, West Virginia.

This Bond is one of an issue of a Series of Bonds in the aggregate principal amount of \$22,160,000 (the “Bonds”) authorized and issued to provide funds to be expended, together with other moneys available therefor, for refunding of certain outstanding revenue bonds issued by the predecessor of the Commission and paying Costs of Issuance of the Bonds, all pursuant to a General Resolution adopted by the Commission on September 9, 1992, as amended by the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the “Fourth Supplemental Resolution”), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the “Fifth Supplemental Resolution”), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the “Sixth Supplemental Resolution” and together with the General Resolution, the Fourth Supplemental Resolution, and the Fifth Supplemental Resolution, the “Resolution”). The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 18, Article 12B and Chapter 18B, Article 1B and Chapter 13, Article 2G of the West Virginia Code of 1931, as amended, (collectively, the “Act”).

This Bond is payable solely, equally and ratably from the Revenues (as such term is defined in the Resolution) on a parity in all respects with the Prior Bonds and any Additional Bonds which may hereafter be issued pursuant to the Resolution. Reference is hereby made to the Resolution as the same may be further amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Commission and the Registered Owners of the Bonds and any subsequently issued Additional Bonds. Certified copies of the Resolution are on file at the office of the Commission in the City of Charleston, West Virginia.

This Bond is a special obligation of the Commission, payable together with the Prior Bonds hereinafter described and any Additional Bonds which may hereafter be issued, solely from the sources pledged under the Resolution. The bonds of the series of which this Bond is one, as to both principal and interest, shall not constitute a debt or a pledge of the faith and credit or taxing power of the State of West Virginia or of any county, municipality or any other political subdivision of said State, and the owners hereof shall have no right to have taxes levied

by the Legislature or the taxing authority of any county, municipality or any other political subdivision of said State for the payment of the principal hereof or interest hereon, but the Bonds, together with any Additional Bonds which may subsequently be issued on a parity herewith, shall be payable equally and ratably solely from the sources pledged under the Resolution.

The Bonds are not subject to optional or mandatory redemption prior to their stated maturity dates.

The holder of this Bond shall have no right to enforce the provisions of the Resolution or to institute an action to enforce the covenants thereof, or to take any action with respect to a default hereof or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Resolution.

Additional Bonds may be issued under the Resolution, and reference is made to the Resolution with respect to the requirements for the issuance of Additional Bonds which shall be equally and ratably secured under the Resolution with the Bonds.

Modifications or amendments of the Resolution may be made to the extent and in the circumstances permitted by the Resolution to which reference is hereby made.

This Bond must be registered in accordance with the provisions hereof, and may, singly or with other Bonds of this issue, be surrendered to the Registrar and exchanged for other fully registered bonds, upon the terms set forth in the Resolution. Neither the Commission nor the Registrar shall be required to register or transfer this Bond or exchange other Bonds for this bond during the period beginning on a Record Date and ending on an Interest Payment Date.

IT IS HEREBY FURTHER CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due form, time and manner as required by law.

All provisions of the Resolution and the statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN TESTIMONY WHEREOF, the Commission has caused this Bond to be executed by and on its behalf by the manual or facsimile signature of the Governor of the State of West Virginia and the Chancellor of the Commission, and has caused the Great Seal of the State of West Virginia (or a facsimile thereof) to be hereunto affixed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of the Secretary of State of the State of West Virginia, and has caused this Bond to be authenticated by the manual signature of an authorized officer of the Registrar, without which authentication this Bond shall not be valid nor entitled to the benefits of the Resolution, all as of the Bond Date stated above.



WEST VIRGINIA HIGHER EDUCATION POLICY  
COMMISSION

By: *Robert E. Wise, Jr.*  
Robert E. Wise, Jr., Governor of the State of West  
Virginia

By: *Michael Mullen*  
Michael Mullen, Chancellor

Attest: *[Signature]*  
By: *[Signature]*  
Secretary of State of the State  
of West Virginia

CERTIFICATE OF AUTHENTICATION:

This Bond is one of the Bonds described in the within-named Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the Date of Authentication set forth below.

Date of Authentication: August 13, 2003.

Bank One, N.A., as Registrar and  
Paying Agent

By: Loraine B. Mullins  
Its: Authorized Officer

STATEMENT OF INSURANCE

MBIA Insurance Corporation (the "Insurer") has issued a policy containing the following provisions, such policy being on file at Bank One, N.A. Charleston, West Virginia.

The Insurer, in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the Issuer to Bank One, N.A. or its successor (the "Paying Agent") of an amount equal to (i) the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts."

"Obligations" shall mean: \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A:

\$22,160,000

West Virginia Higher Education Policy Commission  
Revenue Refunding Bonds (College Facilities) 2003 Series A

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners or the Paying Agent payment of the Insured Amounts due on such

Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Issuer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

MBIA INSURANCE CORPORATION





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Escrow Agreement

among

**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

and

**WEST VIRGINIA MUNICIPAL BOND COMMISSION, Escrow Agent**

and

**BANK ONE, N.A., Paying Agent**

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Providing for Refunding of the State of West Virginia Board of Directors of the State College  
System State College System Revenue Refunding Bonds, Series 1992

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Dated

as of

August 1, 2003

## ESCROW AGREEMENT

among

STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

and

WEST VIRGINIA MUNICIPAL BOND COMMISSION

and

BANK ONE, N.A.

THIS SERIES 1992 ESCROW AGREEMENT (the "Escrow Agreement"), dated as of August 1, 2003, is entered into among the State of West Virginia Higher Education Policy Commission, a commission of the State of West Virginia (the "Issuer"), the West Virginia Municipal Bond Commission, an agency of the State of West Virginia (the "Escrow Agent") and Bank One, N.A. (the "Paying Agent" or "Registrar") under the following circumstance (words and terms capitalized are used with meanings given them in Section 1):

### RECITALS

- A. The Issuer has outstanding the its State of West Virginia Board of Directors of the State College System State College System Revenue Refunding Bonds, Series 1992 (the "Prior Bonds").
- B. The Prior Bonds were issued under the Resolution.
- C. The Issuer has issued its State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A (the "2003 Bonds") for the purpose of refunding the Prior Bonds.
- D. In connection with the refunding, the Issuer now wishes to provide for the payment and redemption of the Prior Bonds.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Escrow Agreement, and in order to secure the payment of the principal, interest and any premium on the Prior Bonds, the Issuer and the Escrow Agent agree as follows:

**Section 1. Definitions.** The following terms are defined terms under this Escrow Agreement:

"Bid" means that solicitation for the best bid for investment in the Permitted Securities for the Qualified Defeasance Investments.

“Bond Service Charges” means the principal, interest, and any redemption premium on the Prior Bonds.

“Closing Date” means the date of delivery of the 2003 Series A Bonds to the Underwriter in exchange for payment of the purchase price

“Defeasance Securities” means the Qualified Defeasance Investments described on Appendix A-1 and any Substitute Securities purchased under Section 4(c).

“Escrow Fund” means the State of West Virginia Higher Education Policy Commission 2003 Series A Revenue Refunding Bonds Escrow Fund, established in Section 2 of this Escrow Agreement.

“Qualified Defeasance Investments” means Permitted Investments as defined in the Resolution, and includes Government Obligations and Government Agency Obligations, among other investments.

“Resolution” means that certain General Resolution of the State of West Virginia Board of Directors of the State College System (a predecessor Board to the Commission) relating to the State College System Revenue and Refunding Bonds adopted September 9, 1992 (the “General Resolution”), and that certain First Supplemental Resolution of the State of West Virginia Board of Directors of the State College System (a predecessor Board to the Commission) authorizing up to \$54,000,000 principal amount of the Board’s State College System Revenue Refunding Bonds, Series 1992, such First Supplemental Resolution adopted September 9, 1992 (the “First Supplemental Resolution”), authorizing the issuance of the Prior Bonds.

“Substitute Securities” means securities purchased and deposited in the Escrow Funds in accordance with Section 4(c), in substitution for securities sold by the Escrow Agent as provided in that Section.

Words and terms not otherwise defined in this Escrow Agreement are used with the meanings given them in the Bond Indenture.

**Section 2. Escrow Fund.** The Issuer hereby establishes a “State of West Virginia Higher Education Policy Commission 2003 Series A Revenue Refunding Bonds Escrow Fund” as a separate deposit account in the custody of the Escrow Agent.

The Escrow Fund, including the earnings on that fund and the investments in that fund will be held in trust for the benefit of the holders of the Prior Bonds and will be applied to the payment of Bond Service Charges on the Prior Bonds as provided in Section 5 of this Escrow Agreement.

**Section 3. Escrow Funding.** The Issuer will pay into, or direct that the following is paid into, the Escrow Fund: (i) from the proceeds of the sale of the 2003 Bonds, the amount of \$22,665,158.13; (ii) from funds held by the Escrow Agent for the payment of debt service on the Prior Bonds, the amount of \$109,416.87.

**Section 4. Investment of Escrow Fund.** The money in the Escrow Fund must be invested and reinvested by the Escrow Agent in accordance with this Section 4. The Escrow Agent will not surrender or otherwise attempt to redeem or negotiate the investments in the Escrow Fund except as they come due as shown on Appendix A-1 or when they become due on reinvestment as provided in paragraph (b) below, or upon the purchase of Substitute Securities as provided in paragraph (c) below.

The Escrow Agent must use the money initially deposited in the Escrow Fund (except for the sum of \$0.71 of such amount which is to remain as uninvested cash) to purchase the Defeasance Securities. The Defeasance Securities to be acquired for the Escrow Fund are described on Appendix A-1. The Escrow Agent must purchase the Defeasance Securities for the Escrow Fund in accordance with the terms of the Bid.

**Section 5. Payment of Prior Bonds.** The Escrow Fund, including the investments in the Escrow Fund and the income derived from those investments, must be held by the Escrow Agent and used solely to pay the Bond Service Charges on the Prior Bonds. The Escrow Agent shall transfer the required funds to the Paying Agent in a timely manner in order to pay the Bond Service Charges on the Prior Bonds on October 1, 2003.

The Issuer authorizes and directs the Registrar to give the notices required by the Resolution at Section 5.05 thereof that the Prior Bonds are to be redeemed on the dates described on Appendix B-1, and further directs the Registrar to give notice to each owner or partial owner of said 2003 Bonds by mailing a copy of a Notice of Redemption in the form as prescribed in attached Appendix C, by first-class mail, postage prepaid, to such owners' last addresses appearing on the registration books of the Issuer maintained by the Registrar not later than August 31, 2003. At the discretion of the Registrar, notice may also be given by publication in an Authorized Newspaper, as defined in the Resolution and pursuant to the provisions of Section 5.05 of the Resolution, but such publication shall not relieve the duty of the Registrar to mail notices to owners of the 2003 Bonds as set forth herein. The Issuer will pay all costs incurred by the Escrow Agent and Registrar in giving those notices.

**Section 6. Defeasance of Prior Bonds.** The Defeasance Securities held in the Escrow Fund are of such maturities or redemption dates and interest payment dates as will be sufficient, together with any cash in the Escrow Fund, without further investment or reinvestment of the principal or interest earnings, for the payment of the Bond Service Charges on the Prior Bonds on October 1, 2003.

The purchase of the Defeasance Securities and the Issuer's direction to the Escrow Agent and Paying Agent in Section 5 to give the redemption notice for the Prior Bonds, meet the requirements of Article VIII of the General Resolution and Article IX of the First Supplemental Resolution for defeasance of the Prior Bonds.

**Section 7. Money Remaining.** Any money in the Escrow Fund after the final remaining payment of all Bond Service Charges on the Prior Bonds and the payment of all fees and expenses of the Escrow Agent must be paid to the Issuer.

**Section 8. Escrow Agent.** The Escrow Agent may consult with counsel of its choice with respect to any question relating to its duties and responsibilities hereunder or otherwise in connection herewith, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or not taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

None of the provisions contained in this Escrow Agreement shall require the Escrow Agent to use or advance its own funds in the performance of any of its duties or the exercise of any of its rights or powers hereunder. The Escrow Agent shall not be responsible or liable for the performance or compliance by any party other than the Escrow Agent with the terms or conditions of any such instruments.

The duties and responsibilities of the Escrow Agent shall be limited to those expressly set forth in this Escrow Agreement. No implied duties of the Escrow Agent shall be read into this Escrow Agreement.

The Escrow Agent shall be entitled to rely and shall be protected in acting in reliance upon any instructions or directions furnished to it in writing or pursuant to the provisions of this Escrow Agreement and shall be entitled to treat as genuine, and as the document it purports to be, any letter, paper or other document furnished to it and believed by it to be genuine and to have been signed and presented by the proper party or parties. The Escrow Agent is hereby authorized and empowered to use affiliates or agents to perform any of its duties under this Escrow Agreement.

The Issuer hereby agrees to indemnify and hold the Escrow Agent and its directors, officers, agents and employees (collectively, the "Indemnified Parties") harmless from and against any and all claims, liabilities, losses, damages, fines, penalties and expenses, including out-of-pocket and incidental expenses and legal fees ("Losses") that may be imposed on, incurred by, or asserted against, the Indemnified Parties or any of them for following any instructions or other directions upon which the Escrow Agent is authorized to rely pursuant to the terms of this Escrow Agreement. In addition to and not in limitation of the immediately preceding sentence, the Issuer also agrees to indemnify and hold the Indemnified Parties and each of them harmless from and against any and all Losses that may be imposed on, incurred by, or asserted against the Indemnities or any of them in connection with or arising out of the Escrow Agent's performance under this Escrow Agreement, provided the Indemnified Parties have not acted with gross negligence or engaged in willful misconduct. The foregoing indemnity shall survive the termination of the Escrow Agreement.

Any corporation, association or other entity into which the Escrow Agent may be converted, merged, or with which it may be consolidated, or to which it may sell or otherwise transfer all or substantially all of its corporate trust assets and business or any corporation, association or other entity resulting from any such conversion, sale, merger, consolidation or other transfer to which it is a party, ipso facto, shall be and become successor escrow agent hereunder, vested with all other matters as was its predecessor, without the execution or filing of any instrument or any further act on the part of the parties hereto, notwithstanding anything herein to the contrary.

**Section 9. Fees and Charges of Escrow Agent and Paying Agent.** The Issuer shall pay the Escrow Agent and Paying Agent, from time to time, reasonable compensation for all services rendered hereunder, and under the Resolution, and reimburse the Escrow Agent and Paying Agent for all fees and expenses, including reasonable fees and expense of counsel, upon receipt of an invoice from the Escrow Agent and Paying Agent. The Escrow Agent and Paying Agent each acknowledge that the agreement by Issuer to pay its respective fees and charges is satisfactory to it and satisfies any rights it may have to fees and charges under the Prior Indenture and that the Escrow Agent or Paying Agent has no lien or other interest in the Escrow Fund or any money or investments in the Escrow Fund.

**Section 10. Dedication of Escrow Fund to Payment of Prior Bonds.** The Issuer dedicates the Escrow Fund to the payment of Bond Service Charges on the Prior Bonds. The trust and fiduciary relationship created by this Escrow Agreement is irrevocable and is intended for the benefit of the holders of the Prior Bonds. The dedication and use of the Escrow Funds is valid against all parties having claims of any kind against the Issuer or the Escrow Agent, regardless of the capacity in which the claim arose. No entity or person other than the Escrow Agent has any interest in or ownership of the Escrow Fund. The Escrow Fund must be used solely for the payment of Bond Service Charges on the Prior Bonds until the final payment of those Bond Service Charges.

**Section 11. Amendments.** This Escrow Agreement may be amended or modified to cure any ambiguity, inconsistency or formal defect, or to confer upon the Escrow Agent for the benefit of the holders of the Prior Bonds any additional rights, remedies, powers or security.

No amendment may be made unless the Escrow Agent has received an Opinion of Bond Counsel that the amendment or modification will not cause the interest on the Prior Bonds or the 2003 Series A Bonds to be included in the gross income of the holders of those bonds.

**Section 12. Severability.** If any provision of this Escrow Agreement is held to be invalid, illegal or unenforceable, no other provision will be affected by that holding.

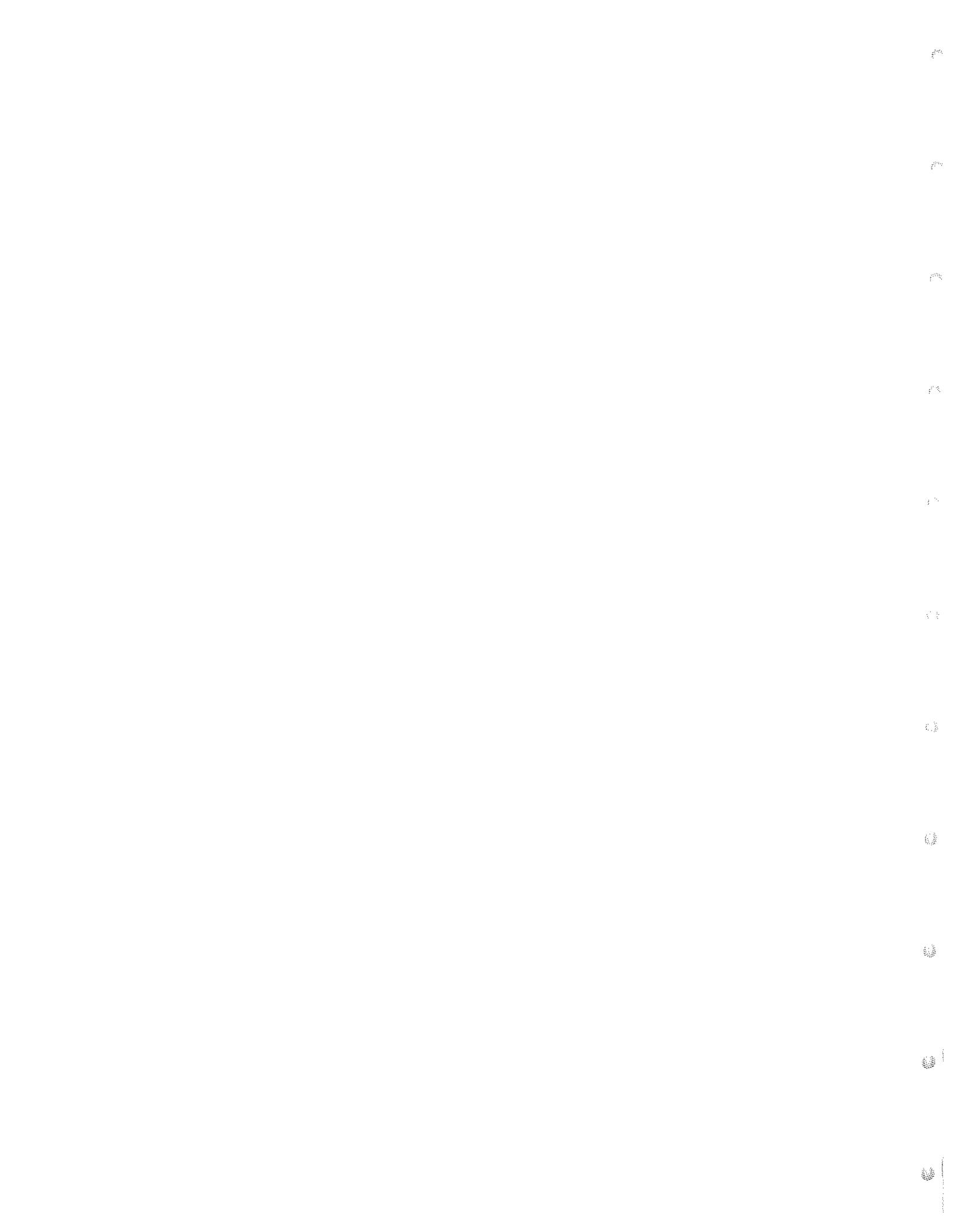
**Section 13. Successor and Assigns.** This Escrow Agreement will inure to the benefit of and be binding on the Issuer, the Escrow Agent, the holders of the Prior Bonds and the 2003 Series A Bonds, and their successors and assigns.

**Section 14. Counterparts.** This Escrow Agreement may be signed in several counterparts. Each counterpart will be an original and all counterparts will constitute a single document. The parties may sign separate signature pages. A counterpart will be duly executed if it contains the signature of the parties on one or more signature pages.

**Section 15. Termination.** This Escrow Agreement will terminate upon the completion of the duties of the Escrow Agent.

**Section 16. Governing Law.** This Escrow Agreement will be governed by the laws of West Virginia.

The Issuer, the Escrow Agent and the Paying Agent have caused this Escrow Agreement to be signed and delivered by their duly authorized officers, all as of the date set forth above.



STATE OF WEST VIRGINIA HIGHER  
EDUCATION POLICY COMMISSION, as  
Issuer

By: J. Thomas Jones  
Its: Chairman

WEST VIRGINIA MUNICIPAL BOND COMMISSION  
as Escrow Agent

By: A. Willett  
Its: Executive

BANK ONE, N.A., as Paying Agent

By: Louise B. Mullins  
Its: Vice President



APPENDIX A-I

STATE OF WEST VIRGINIA  
 HIGHER EDUCATION POLICY COMMISSION  
 REVENUE REFUNDING BONDS  
 (STATE COLLEGE FACILITIES), 2003 SERIES A

DESCRIPTION OF THE ESCROWED SECURITIES  
 AS OF AUGUST 13, 2003

Type	Settlement Date	Maturity Date	Par Amount	Coupon Rate	Price	Cost	Accrued Interest	Total Cost
Security Purchased with the Debt Service Fund Contribution:								
T-NOTE	13-Aug-03	30-Sep-03	\$108,010.54	2.750%	100.287027%	\$108,320.56	\$1,095.60	\$109,416.16
Security Purchased with Refunding Bond Proceeds:								
T-NOTE	13-Aug-03	30-Sep-03	22,373,989.46	2.750%	100.287027%	22,438,208.85	226,949.28	22,665,158.13
			<u>\$22,482,000.00</u>			<u>\$22,546,529.41</u>	<u>\$228,044.88</u>	<u>\$22,774,574.29</u>

APPENDIX B-I

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

ESCROW ACCOUNT DISBURSEMENT REQUIREMENTS FOR THE REFUNDED BONDS  
AS OF AUGUST 13, 2003

Payment Date	Rate	Payment For			
		Principal Redeemed	Interest	Premium	Total
01-Oct-03	Various	\$21,695,000.00	\$645,675.00	\$433,900.00	\$22,774,575.00
		\$21,695,000.00	\$645,675.00	\$433,900.00	\$22,774,575.00

APPENDIX C

NOTICE OF REDEMPTION TO THE HOLDERS OF  
\$46,825,000  
STATE COLLEGE SYSTEM REVENUE REFUNDING BONDS  
SERIES 1992

NOTICE IS HEREBY GIVEN pursuant to the applicable provisions of the governing documents of the above captioned Bonds (the "Bonds"), issued by the Higher Education Policy Commission, as successor to the Board of Directors of the State College System (the "Issuer") on November 1, 1992, that the Bonds herein described are called for redemption prior to their maturity and will be redeemed on October 1, 2003, (the "Redemption Date"). On the Redemption Date, the redemption price indicated below will become due and payable. Redemption will be made by payment of the principal amount of each such Bond, together with interest accrued to the Redemption Date plus applicable premium, if any. From and after October 1, 2003, interest on such Bonds shall cease to accrue and any lien or interest in or to any pledge of security or collateral for such Bonds hereby called shall also cease and become null on the Redemption Date.

The following Bonds will be redeemed and paid upon presentation to the office(s) shown below.

CUSIP Number*	Maturity Date (April 1)	Principal Amount to be Refunded	Interest Rate	Price
956691DW7	2004	\$3,065,000	5.750%	102%
956691DX5	2005	\$2,150,000	5.875%	102%
956691DY3	2006	\$2,245,000	6.000%	102%
956691DZ0	2007	\$2,340,000	6.000%	102%
956691EA4	2012	\$11,985,000	6.000%	102%

Payment of said Bonds called for redemption will be made upon presentation and surrender of such Bonds.

Called Bonds should be presented as follows: Bank One, N.A.  
Corporate Trust Department  
707 Virginia Street, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Registered or certified insured mail is suggested when submitting called Bonds for payment.

When inquiring about this redemption, please have the Bond number available. Please inform the customer service representative of the CUSIP number(s) of the affected Bonds. Customer Service is 1-800-346-5153.

**By: Bank One, N.A.**  
*as Paying Agent*

Dated: \_\_\_\_\_, 20\_\_  
LOGO]

[BANK ONE, N.A.]

**NOTICE**

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Interest and Dividend Tax Compliance Act of 1983 unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your securities.

*\*The Issuer and Paying Agent shall not be responsible for the use of the CUSIP number(s) selected, nor is any representation made as to their correctness indicated in the notice nor as printed on any Bond. They are included solely for the convenience of the holders.*

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269040

**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES) 2003 SERIES A**

**CERTIFICATE OF DETERMINATION**

The undersigned, J. Thomas Jones, Chairman, on behalf of the West Virginia Higher Education Policy Commission (the "Commission"), in accordance with a General Resolution adopted by the Commission on September 9, 1992 (the "General Resolution"), as amended by the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and collectively with the General Resolution, the Fourth Supplemental Resolution, and the Fifth Supplemental Resolution the "Resolution"), with respect to the \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A ( the "2003 Bonds"), hereby finds and determines as follows:

(i) The 2003 Bonds shall be issued in the aggregate principal amount of \$22,160,000. Such principal amount does not exceed \$40,000,000, being the maximum principal amount of such Bonds authorized by the Resolution.

(ii) The 2003 Bonds shall mature in the amounts and on the dates set forth on Schedule I attached hereto and incorporated herein. Schedule I includes the amounts and maturities of serial bonds which maturities do not extend beyond April 1, 2027. The Interest Payment Dates on the 2003 Bonds shall be each April 1 and October 1, commencing October 1, 2003. The Record Date for such 2003 Bonds shall be the 15<sup>th</sup> day of the month next preceding an Interest Payment Date.

(iii) The 2003 Bonds shall bear interest at the rates and produce the yields set forth on Schedule I attached hereto and incorporated herein, which rates do not exceed an average interest cost of 6% per annum.

(iv) The 2003 Bonds shall not be subject to mandatory redemption

(v) The 2003 Bonds shall not be subject to optional redemption

(vi) The 2003 Bonds shall be sold to Citigroup Global Markets Inc., Ferris, Baker Watts, Incorporated and Crews & Associates, Inc. (the "Underwriters") pursuant to the terms of the Bond Purchase Agreement by and between the Underwriters and the Commission, at an aggregate purchase price of \$ 22,889,697.74 (representing par value, of \$22,160,000, less an underwriting discount of \$78,587.20, plus a net premium of \$781,741.40, plus accrued interest of \$26,543.54 on the 2003 Bonds).

(vii) The 2003 Bonds shall be dated August 1, 2003. The 2003 Bonds shall be delivered in the form of fully registered 2003 Bonds in denominations of \$5,000 and any integral

multiple thereof. The 2003 Bonds shall be registered initially in the name of "Cede & Co.," as nominee of the Securities Depository and shall be evidenced by one Bond for each Maturity Date of 2003 Bonds in the total aggregate principal amount of the 2003 Bonds. Registered ownership of the 2003 Bonds, or any portion thereof, may not thereafter be transferred except as set forth in Section 2.04 of the Fourth Supplemental Resolution. The 2003 Bonds shall be dated August 1 2003, and shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from the dated date, payable on each Interest Payment Date until the date of maturity. The 2003 Bonds shall mature on their respective Maturity Dates set forth on Schedule I. The 2003 Bonds shall be numbered in such manner as shall be determined by the Bond Registrar. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Bondholder on such Record Date and shall be paid to the person in whose name the Bond is registered at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Bond Registrar, notice whereof being given by telecopy, telegraph, telex, facsimile transmission, email transmission or other similar electronic means of communication, including a telephonic communication confirmed by writing or written transmission. to the Bondholders not less 10 days prior to such special record date.

(viii) The 2003 Bonds shall be issued in a single series and shall be designated as \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A.

(ix) MBIA Insurance Corporation (the "Bond Insurer") has offered a Bond Insurance Policy for the 2003 Bonds pursuant to the terms of a commitment letter dated August 8, 2003 (the "Commitment"). The terms and provisions of the Commitment, the Bond Insurance Policy and the Insurance and Reimbursement Agreement dated as of August 1, 2003, (the Reimbursement Agreement"), in the form attached as Schedule II hereto and incorporated herein are hereby accepted and approved. The cost of the Bond Insurance Policy does not exceed one percent (1%) of the principal amount of the 2003 Bonds. The provisions and terms required by the Bond Insurer for the 2003 Bonds are set forth in Schedule III attached hereto and incorporated herein.. Such terms and provisions are hereby accepted and approved.

(x) There shall be no Remarketing Agent, Tender Agent, Auction Agent, Liquidity Provider, Credit Provider, or other Service Provider with respect to the 2003 Bonds.

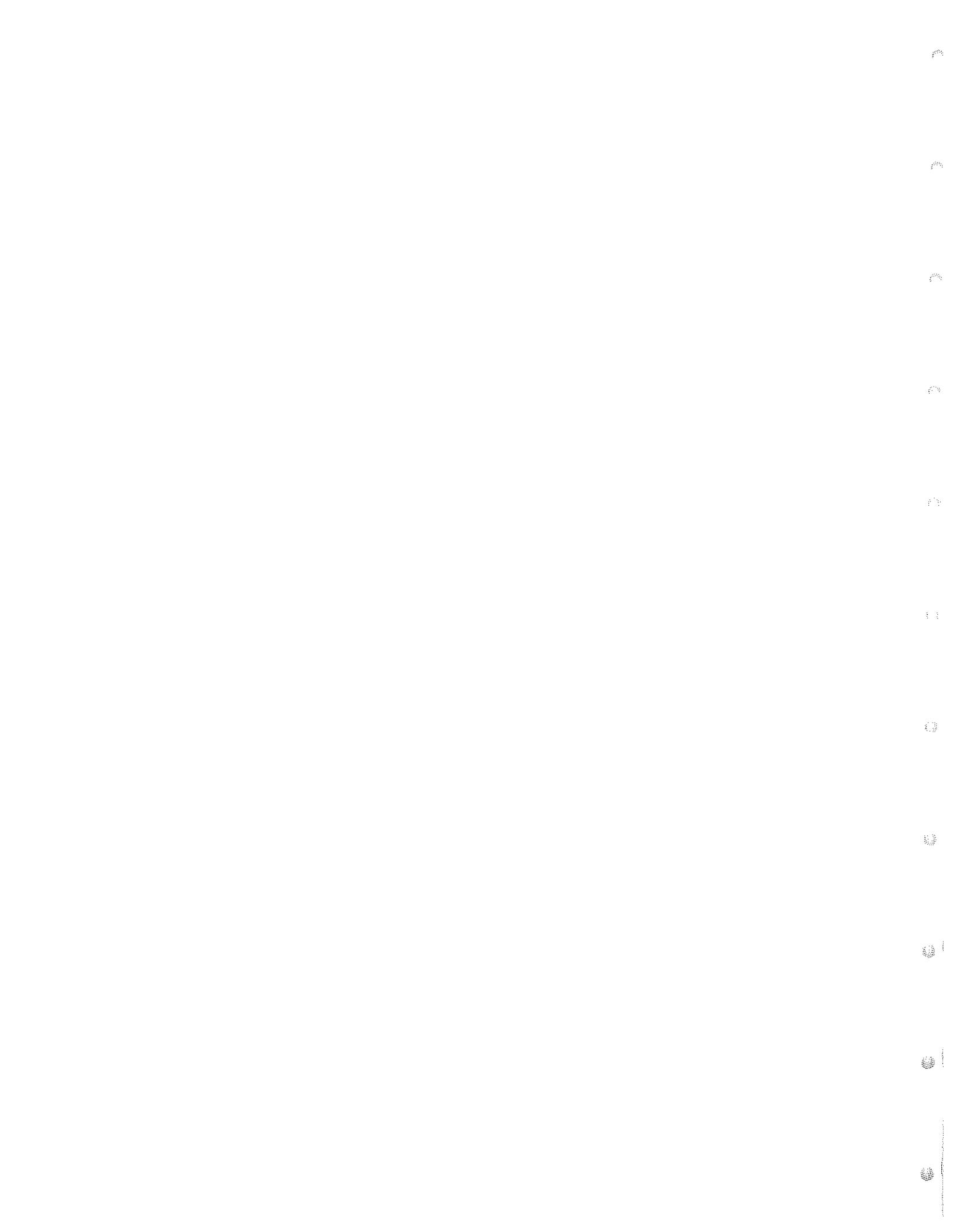
(xi) The proceeds of the 2003 Bonds shall be applied to currently refund the Commission's State College System Revenue Refunding Bonds, Series 1992, dated November 1, 1992, and currently Outstanding in the aggregate principal amount of \$21,695,000 (the "Bonds to be Refunded) on October 1, 2003 pursuant to the terms of an Escrow Agreement between the Commission and the West Virginia Municipal Bond Commission.

(xii) The West Virginia Municipal Bond Commission is hereby appointed as Escrow Agent for the Bonds to be Refunded.

(xiii) Bank One, N.A. is hereby appointed as Registrar and Paying Agent for the 2003 Bonds.

(xiv) The West Virginia Municipal Bond Commission is hereby appointed as fiscal agent to hold and manage the funds and accounts established by the Fourth Supplemental Resolution for the 2003 Bonds.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Resolution.



The undersigned hereby certifies that the foregoing terms and conditions of the 2003 Bonds are within the limitations prescribed by the Resolution, and the 2003 Bonds may be issued upon such terms and conditions as authorized by the Resolution and this Certificate of Determination.

WITNESS my signature this 13<sup>th</sup> day of August, 2003.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By:   
\_\_\_\_\_  
J. Thomas Jones, Chairman



Schedule 1

2003 Series A Bonds  
MATURITY SCHEDULES

Maturity	Principal	Coupon	Yield	Price
04/01/2004	\$3,635,000	2.000 %	1.030 %	100.610
04/01/2005	2,325,000	3.000	1.480	102.442
04/01/2006	2,365,000	3.000	2.020	102.499
04/01/2007	2,395,000	2.375	2.490	99.601
04/01/2008	2,415,000	5.000	2.850	109.266
04/01/2009	2,505,000	5.000	3.230	109.046
04/01/2010	2,595,000	5.000	3.560	108.437
04/01/2011	2,690,000	3.750	3.830	99.471
04/01/2012	1,235,000	4.000	4.020	99.851

Schedule II

Insurance and Reimbursement Agreement

(Please refer to Tab No. 43)

## Schedule III

### Bond Insurance Requirements

(A) General. Notwithstanding any provision of the Resolution or this Certificate to the contrary, so long as the Bond Insurance Policy is in effect and the Bond Insurer is not in default of its obligations thereunder, the provisions of this Schedule III shall apply.

(B) Bond Insurer Deemed Owner of 2003 Bonds. The Bond Insurer shall be deemed the sole Owner of the 2003 Bonds for all purposes (except the giving of a notice of default to Bondholder). Without limiting the foregoing, there shall be no acceleration of the 2003 Bonds without the prior written consent of the Bond Insurer.

(C) Prior Consent of the Bond Insurer. Any provision herein which purports to require the prior consent of the Bond Insurer in order to take any action shall be subject to the Bond Insurance Policy then being in effect and the Bond Insurer not then in default of its obligations thereunder.

(D) Payments Under the Bond Insurance Policy.

(a) In the event that, on the second Business Day, and again on the Business Day, prior to any Interest Payment Date on the 2003 Bonds, the Paying Agent has not received sufficient moneys to pay all principal of and interest on the 2003 Bonds due on the second following or following, as the date may be, Business Day, the Paying Agent shall immediately notify the Bond Insurer or its designee on the same Business Day by telephone or telegraph, confirmed in writing by registered or certified mail, of the amount of the deficiency.

(b) If the deficiency is made up in whole or in part prior to or on the Interest Payment Date, the Paying Agent shall so notify the Bond Insurer or its designee.

(c) In addition, if the Paying Agent has notice that any Bondholder has been required to disgorge payments of principal or interest on the 2003 Bonds to a trustee in bankruptcy or creditors or others pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Bondholder within the meaning of any applicable bankruptcy laws, then the Paying Agent shall notify the Bond Insurer or its designee of such fact by telephone or telegraphic notice, confirmed in writing by registered or certified mail.

(d) The Paying Agent is hereby irrevocably designated, appointed, directed and authorized to act as attorney-in-fact for Holders of the 2003 Bonds as follows:

(i) If and to the extent there is a deficiency in amounts required to pay interest on the 2003 Bonds, the Paying Agent shall (a) execute and deliver to U.S. Bank Trust National Association, or its successors under the Bond Insurance Policy (the "Insurance Paying Agent/Trustee"), in form satisfactory to the Insurance Paying Agent/Trustee, an instrument appointing the Bond Insurer as agent for such Holders in any legal proceeding related to the payment of such interest and an assignment to the Bond Insurer of the claims for interest to which such deficiency relates and which are

paid by the Bond Insurer, (b) receive as designee of the respective Holders (and not as trustee) in accordance with the tenor of the Policy payment from the Insurance Paying Agent/Trustee with respect to the claims for interest so assigned, and (c) disburse the same to such respective Holders; and

(ii) If and to the extent of a deficiency in amounts required to pay principal of the Series 2003 Bonds, the Paying Agent shall (a) execute and deliver to the Insurance Paying Agent/Trustee in form satisfactory to the Insurance Paying Agent/Trustee an instrument appointing the Bond Insurer as agent for such Holder in any legal proceeding relating to the payment of such principal and an assignment to the Bond Insurer of any of the 2003 Bond surrendered to the Insurance Paying Agent/Trustee of so much of the principal amount thereof as has not previously been paid or for which moneys are not held by the Paying Agent and available for such payment (but such assignment shall be delivered only if payment from the Insurance Paying Agent/Trustee is received), (b) receive as designee of the respective Holders (and not as trustee) in accordance with the tenor of the Policy payment therefor from the Insurance Paying Agent/Trustee, and (c) disburse the same to such Holders.

(e) Payments with respect to claims for interest on and principal of 2003 Bonds disbursed by the Paying Agent from proceeds of the Bond Insurance Policy shall not be considered to discharge the obligation of the Commission with respect to such 2003 Bonds, and the Bond Insurer shall become the owner of such unpaid 2003 Bond and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of this subsection or otherwise.

(f) Irrespective of whether any such assignment is executed and delivered, the Commission and the Paying Agent hereby agree for the benefit of the Bond Insurer that:

(i) They recognize that to the extent the Bond Insurer makes payments, directly or indirectly (as by paying through the Paying Agent), on account of principal of or interest on the 2003 Bonds, the Bond Insurer will be subrogated to the rights of such Holders to receive the amount of such principal and interest from the Commission, with interest thereon as provided and solely from the sources stated in the Resolution and the 2003 Bonds; and

(ii) They will accordingly pay to the Bond Insurer the amount of such principal and interest (including principal and interest recovered under subparagraph (ii) of the first paragraph of the Bond Insurance Policy, which principal and interest shall be deemed past due and not to have been paid), with interest thereon as provided in this Certificate, and the Reimbursement Agreement and the 2003 Bond, but only from the sources and in the manner provided herein for the payment of principal of and interest on the 2003 Bonds to Holders, and will otherwise treat the Bond Insurer as the owner of such rights to the amount of such principal and interest.

(E) Miscellaneous.

(a) In connection with the issuance of any Additional Bonds, the Commission shall deliver to the Bond Insurer a copy of the disclosure document, if any, circulated with respect to such Additional Bonds.

(b) Copies of any amendments made to the documents executed in connection with the issuance of the 2003 Bonds which are consented to by the Bond Insurer shall be sent to S&P.

(c) The Bond Insurer shall receive notice of the resignation or removal of the Paying Agent and the appointment of a successor thereto.

(d) The Bond Insurer shall receive copies of all notices required to be delivered to Bondholders and, on an annual basis, copies of the Commission's audited financial statements and Annual Budget with respect to the Revenues.

(e) Any notice that is required to be given to a holder of the 2003 Bond or to the Paying Agent pursuant to this Certificate, and the Reimbursement Agreement shall also be provided to the Bond Insurer. All notices required to be given to the Bond Insurer under this Certificate, and the Reimbursement Agreement shall be in writing and shall be sent by registered or certified mail addressed to MBIA Insurance Corporation, 113 King Street, Armonk, New York 10504, Attention: IPM Manager-Higher Education.

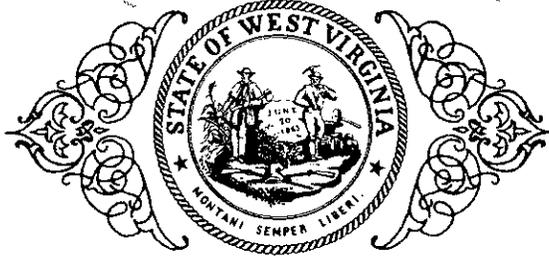
(f) The Commission agrees to reimburse the Bond Insurer upon demand, to the extent permitted by law, for all reasonable expenses, including attorneys' fees and expenses, incurred by the Bond Insurer in connection with (i) the enforcement by the Bond Insurer of the Commission's obligations, or the preservation or defense of any rights of the Bond Insurer, under this Certificate, and the Reimbursement Agreement and any other document executed in connection with the issuance of the 2003 Bonds, and (ii) any consent, amendment, waiver or other action with respect to this Certificate, and the Reimbursement Agreement or any related document, whether or not granted or approved, together with interest on all such expenses from and including the date incurred to the date of payment at Citibank's Prime Rate plus 3% or the maximum interest rate permitted by law, whichever is less. In addition, the Bond Insurer agrees reserves the right to charge a fee in connection with its review of any such consent, amendment or waiver, whether or not granted or approved.

(g) The Commission agrees not to use Bond Insurer's name in any public document including, without limitation, a press release or presentation, announcement or forum without Bond Insurer's prior consent. In the event that the Commission is advised by counsel that it has a legal obligation to disclose Bond Insurer's name in any press release, public announcement or other public document, the Commission shall provide Bond Insurer with at least three (3) business days' prior written notice of its intent to use Bond Insurer's name together with a copy of the proposed use of Bond Insurer's name and of any description of a transaction with Bond Insurer and shall obtain Bond Insurer's prior consent as to the form and substance of the proposed use of Bond Insurer's name and any such description.

(h) The Commission shall not enter into any agreement nor shall it consent to or participate in any arrangement pursuant to which the 2003 Bonds are tendered or

purchased for any purpose other than the redemption and cancellation or legal defeasance of such 2003 Bonds without the prior written consent of Bond Insurer.

# State of West Virginia



## Certificate

*I, Joe Manchin, III, Secretary of State of the  
State of West Virginia, hereby certify that*

**THIS IS A TRUE COPY OF WEST VIRGINIA CODE §§18B-1-1b AND 18B-1-1c, SHOWING THAT THESE SECTIONS WERE REPEALED BY ACTS 2000, c. 100, EFFECTIVE JUNE 30 2001, AS INDICATED BY THE RECORDS OF THIS OFFICE.**



*Given under my hand and the  
Great Seal of the State of  
West Virginia on*

August 6, 2003

*Joe Manchin III*  
By: *John B. G.* Secretary of State  
Administrative Assistant

(6) Post-secondary education enhances state efforts to diversify and expand the economy of the state. Efforts in pursuit of this goal include, but are not limited to, the following:

(A) The focus of resources on programs and courses which offer the greatest opportunities for students and the greatest opportunity for job creation and retention in the state;

(B) The focus of resources on programs supportive of West Virginia employment opportunities and the emerging high-technology industries;

(C) Closer linkages among higher education and business, labor, government and community and economic development organizations; and

(D) Clarification of institutional missions and shifting of resources to programs which meet the current and future work force needs of the state.

(7) Faculty and administrators are compensated on a competitive level with peer institutions to attract and keep quality personnel at state institutions of higher education.

(8) The tuition and fee levels for in-state students are competitive with those of peer institutions and the tuition and fee levels for out-of-state students are set at a level which at the least covers the full cost of instruction. (1993, c. 47; 1995, c. 99; 2000, c. 100; 2001, c. 110.)

**Effect of amendment of 2000.** — Acts 2000, c. 100, effective June 17, 2000, rewrote the section.

**Effect of amendment of 2001.** — Acts

2001, c. 110, effective July 1, 2001, substituted "work force" for "workforce" throughout; and in (d)(7), deleted "staff" following "Faculty".

**§§ 18B-1-1b, 18B-1-1c.**

Repealed by Acts 2000, c. 100.

**Editor's notes.** — Former §§ 18B-1-1b and 18B-1-1c (enacted by Acts 1993, c. 47 and amended by Acts 1995, c. 99) concerning the implementations of findings and the focusing of

resources to maximize opportunities, were repealed, effective June 30, 2001, by § 18B-1A-8 (enacted by Acts 2000, c. 100, effective June 17, 2000).

**§ 18B-1-1d. Retirement and separation incentives.**

(a) Notwithstanding any other provisions of this code to the contrary, each state institution of higher education may include in its strategic plan, pursuant to section one-c [§ 18B-1-1c] of this article, policies that offer various incentives for voluntary, early or phased retirement of employees or voluntary separation from employment when necessary to implement programmatic changes effectively pursuant to the findings, directives, goals and objectives of this article: Provided, That such incentives for voluntary, early or phased retirement of employees or voluntary separation from employment must be submitted by the governing board to the legislative joint committee on pensions and retirement and approved before such policies are adopted as part of the institution's strategic plan.

(b) Effective the first day of July, two thousand one, each state institution of higher education may implement, under its institutional compact, created pursuant to section two [§ 18B-1A-2], article one-a of this chapter, policies that



# State of West Virginia



## Certificate

*I, Joe Manchin, III, Secretary of State of the  
State of West Virginia, hereby certify that*

**THIS IS A TRUE COPY OF CHAPTER 18, ARTICLE 12B, OF THE  
WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS  
OFFICE.**



*Given under my hand and the  
Great Seal of the State of  
West Virginia on*

August 6, 2003

*Joe Manchin*  
By: *Richard B. ...* Secretary of State  
Richard B. ... Assistant

**§ 18-12A-6. Credit of State not pledged.**

No provisions of this article shall be construed to authorize the board at any time or in any manner to pledge the credit or taxing power of the State, nor shall any of the obligations or debts created by the board under the authority herein granted be deemed to be obligations of the State. (1956, c. 8.)

**§ 18-12A-7. Bonds exempt from taxation.**

All bonds issued by the board under the provisions of this article shall be exempt from taxation by the State of West Virginia, or by any county, school district or municipality thereof. (1956, c. 8.)

**§ 18-12A-8. Supplemental powers conferred; conflicting laws superseded.**

The powers conferred by this article shall be in addition and supplemental to the existing powers of the board of education. The provisions of any other law or laws conflicting with the provisions of this article shall be and the same are hereby superseded to the extent of any such conflict. (1956, c. 8.)

ARTICLE 12B.

**REVENUE BONDS FOR STATE INSTITUTIONS OF  
HIGHER EDUCATION — CAPITAL  
IMPROVEMENTS ON  
SYSTEM BASIS.**

- |  |   |
|--|---|
| <p>Sec.<br/>18-12B-1. Board of regents [abolished] authorized to issue revenue bonds for certain capital improvements; payment of relocation costs.</p> <p>18-12B-2. State system tuition fee special capital improvements fund in state treasury; collections to be paid into special fund; authority of board of regents [abolished] to pledge such collections as security for revenue bonds; authority of board to finance projects on a cash basis.</p> <p>18-12B-3. Board of regents [abolished] to fix and collect fees.</p> <p>18-12B-4. Issuance of revenue bonds; use of proceeds; bonds exempt from taxation.</p> | <p>Sec.<br/>18-12B-5. Issuance of revenue refunding bonds; use of moneys; power to enter into escrow agreements; call for redemption.</p> <p>18-12B-6. Bonds may be issued for combined purposes.</p> <p>18-12B-7. Bonds shall be negotiable instruments.</p> <p>18-12B-8. Trust agreements for holders of bonds.</p> <p>18-12B-9. Sinking fund for payment of bonds.</p> <p>18-12B-10. Credit of State not pledged.</p> <p>18-12B-11. Attorney general or his duly appointed legal representative to serve as bond counsel.</p> <p>18-12B-12. Powers of board are supplemental; conflicting laws superseded.</p> |
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**§ 18-12B-1. Board of regents [abolished] authorized to issue revenue bonds for certain capital improvements; payment of relocation costs.**

The West Virginia board of regents shall have authority, as provided in this article, to issue revenue bonds of the state from time to time, either to finance the cost of major renovations, repairs and safety upgrading and providing new capital improvements consisting of facilities, buildings and structures, for those state institutions of higher education as determined by resolution of the board of regents, including any college, university or community college under its supervision, management and control, or to refund, at the discretion of the board of regents, bonds issued and outstanding under and pursuant to the provisions of this article or article eleven-b [§ 18-11B-1 et seq.] of this chapter, or both. Such major renovations, repairs and safety upgrading and capital improvements may, in each case, include land for current or future use in connection therewith and equipment and machinery and other similar items essential or convenient in connection with the foregoing but shall not include such items as books, fuel, supplies or other items which are customarily deemed to result in a current operating charge. The principal of, interest and redemption premium, if any, on such bonds shall be payable solely from the special fund herein provided for such payment. The costs of any such major renovations, repairs and safety upgrading and capital improvements shall include the cost of acquisition of land, the construction and acquisition of any such major renovations, repairs and safety upgrading and capital improvements and equipment and machinery therefor, and the provision of roads, utilities, and other services necessary, appurtenant or incidental to the foregoing; and shall also include all other charges or expenses necessary, appurtenant or incidental to the construction, acquisition, and financing including, but not limited to, debt service reserve requirements and capitalized interest, and placing in operation of any such major renovations, repairs and safety upgrading and capital improvements: Provided, That from time to time but not later than the first day of March, one thousand nine hundred seventy-eight, the board shall issue and sell bonds pursuant to this article in an amount which, when combined with cash available under the provisions of section two [§ 18-12B-2] of this article, will be sufficient to finance the costs of the following purposes and projects:

- (1) Refunding of all bonds issued and outstanding under and pursuant to the provisions of article eleven-b [§ 18-11B-1 et seq.] of this chapter;
- (2) A building to house the music, arts and theatre programs at Shepherd College, at a cost not to exceed two million five hundred thousand dollars;
- (3) A field house at West Liberty State College at a cost not to exceed two million seven hundred thousand dollars;
- (4) A shop and laboratory building at West Virginia State College at a cost not to exceed two million six hundred thousand dollars;
- (5) A multipurpose physical education facility at Marshall University, at a cost not to exceed eighteen million dollars;

(6) A new football stadium at West Virginia University (at a different location than the existing stadium) at a cost not to exceed twenty million dollars; and

(7) An all-purpose shell building for sports and physical education at West Virginia University, at a cost not to exceed four million five hundred thousand dollars.

In the event that private real property is acquired in connection with the above enumerated projects or any board projects initiated on or after the first day of July, one thousand nine hundred eighty-eight, the board shall reimburse individuals, families and business concerns for relocation costs incurred as a consequence of being displaced by such acquisition. With respect to payment of such relocation costs, the board shall follow the same procedure and be subject to the same limitations as required for the commissioner of highways under section twenty [§ 17-2A-20], article two-a, chapter seventeen of this code and regulations promulgated pursuant thereto. (1977, c. 90; 1988, c. 49.)

**Editor's notes.** — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

**W. Va. Law Review.** — Van Tol, "Crisis in Higher Education Governance: One State's

Struggle for Excellence," 91 W. Va. L. Rev. 1 (1989).

Cited in *UMW v. Parsons*, 172 W. Va. 386, 305 S.E.2d 343 (1983).

**§ 18-12B-2. State system tuition fee special capital improvements fund in state treasury; collections to be paid into special fund; authority of board of regents [abolished] to pledge such collections as security for revenue bonds; authority of board to finance projects on a cash basis.**

There is created in the state treasury a state system tuition fee special capital improvements fund to be expended by the board of regents for the benefit of the state institutions of higher education, which shall include any college, university or community college under its supervision, management and control.

On and after the first day of July, one thousand nine hundred seventy-seven, the board of regents may periodically transfer from the special nonrevolving West Virginia University capital improvements fund created in the state treasury pursuant to the provisions of article eleven-b [§ 18-11B-1 et seq.] of this chapter and from the special nonrevolving Marshall University capital improvements fund created in the state treasury pursuant to the provisions of article twelve-a [§ 18-12A-1 et seq.] of this chapter, into the state system tuition fee special capital improvements fund moneys in excess of the amount pledged for the payment of the principal of, interest and redemption premium, if any, on any revenue bonds or revenue refunding bonds issued pursuant to such article eleven-b or twelve-a [§ 18-11B-1 et seq. or § 18-12A-1 et seq.] prior to the first day of July, one thousand nine hundred seventy-seven. Said Marshall University capital improvements fund is hereby continued notwithstanding the retirement of outstanding bonds issued pursuant to such article

twelve-a, but on and after the first day of July, one thousand nine hundred seventy-seven, no bonds shall be issued pursuant to article twelve-a, nor shall any moneys be expended (unless the board of regents shall by board action have made a commitment with respect thereto) pursuant to such article twelve-a. On and after the first day of July, one thousand nine hundred seventy-seven there shall be paid directly into such state system tuition fee special capital improvements fund subject to the prior lien and pledge, if any, of outstanding bonds issued pursuant to the provisions of articles eleven-b and twelve-a of this chapter all tuition fees collected under the provisions of section one [§ 18-24-1, repealed], article twenty-four, chapter eighteen of this Code, from students at West Virginia and Marshall universities; and on and after the first day of July, one thousand nine hundred seventy-eight, in addition to said fees from students at West Virginia University and Marshall University (and subject to said prior lien and pledge, if any) there shall be paid directly into such state system tuition fee special capital improvements fund all tuition fees collected under the provisions of section one [§ 18-24-1, repealed], article twenty-four, chapter eighteen of this Code, from students at all other state institutions of higher education which are under the supervision, management and control of the board of regents: Provided, That tuition fees from students at community colleges shall not be paid into the state system tuition fee special capital improvements fund unless the board shall otherwise determine by resolution.

The board of regents shall have authority to pledge all or such part of the revenues and tuition fees paid into the state system tuition fee special capital improvements fund as may be needed to meet the requirements of any revenue bond issue or issues authorized by this article, including the payment of principal of, interest and redemption premium, if any, on such revenue bonds, the establishing and maintaining of a reserve fund or funds for the payment of the principal of, interest and redemption premium, if any, on such revenue bond issue or issues when other moneys pledged may be insufficient therefor and including such additional protective pledge of revenues and fees as the board of regents in its discretion may provide by resolution authorizing the issue of such bonds and in any trust agreement made in connection therewith, and the board of regents may further provide in such resolution and in such trust agreement, for such priorities on the revenues and fees paid into such state system tuition fee special capital improvements fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this article.

Any balance remaining in the state system tuition fee special capital improvements fund after the board of regents has issued bonds authorized by this article, and after the requirements of all funds including reserve funds established in connection with the bonds issued pursuant to this article have been satisfied, may be used (i) for the redemption of any of the outstanding bonds issued hereunder which by their terms are then redeemable, or for the purchase of such bonds at the market price, but at not exceeding the price, if any, at which such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be canceled and shall not again be

issued or (ii) for any lawful purpose for which the board of regents may expend funds.

The board of regents, in its discretion, may use the moneys in such state system tuition fee special capital improvements fund to finance the cost of projects and purposes on a cash basis. Any pledge of moneys in such fund for revenue bonds shall be a prior and superior charge on such fund over the use of any of the moneys in such fund to pay for the cost of any project or purpose on a cash basis: Provided, That except for the projects and purposes expressly enumerated in section one [§ 18-12B-1] of this article, any expenditures from such fund, other than for the retirement of revenue bonds, may only be made by the board to meet the cost of a predetermined capital improvements program for one or more of the state institutions of higher education, in such order or priority as shall have been agreed upon by the board of regents and presented to the governor for inclusion in the annual budget bill, and only with the approval of the legislature as indicated by direct appropriation for the purpose. (1977, c. 90.)

**Editor's notes.** — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

### § 18-12B-3. Board of regents [abolished] to fix and collect fees.

The board of regents shall fix, establish, maintain and collect the tuition fees provided for in section one [§ 18-24-1, repealed], article twenty-four, chapter eighteen of this Code, from students at all state institutions of higher education other than (unless the board of regents shall otherwise determine by resolution) tuition fees from students attending community colleges, in amounts at least sufficient, at all times, after depositing (subject to, or until termination of, the lien and pledge referred to in section two [§ 18-12B-2] of this article) in the special nonrevolving Marshall University capital improvements fund, and the special nonrevolving West Virginia University capital improvements fund referred to in section two [§ 18-12B-2] of this article such tuition fees as are now required to be deposited therein pursuant to section one [§ 18-24-1, repealed], article twenty-four, chapter eighteen of this Code, to provide revenues for deposit in the state system tuition fee special capital improvements fund which are adequate to pay the principal of, interest and redemption premium, if any, on the bonds authorized to be issued pursuant to this article as the same mature and become due and to make all reserve and other payments to be required by the proceedings which authorize such bonds, and to provide any additional protective pledge of revenues and fees and reserve or other payments as the board of regents may in its discretion require by the resolution authorizing any issue of bonds pursuant to this article and any trust agreement made in connection therewith, and to make all other payments required by this article or any such proceedings, resolutions or trust agreements. (1977, c. 90.)

*Editor's notes.* — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

**§ 18-12B-4. Issuance of revenue bonds; use of proceeds; bonds exempt from taxation.**

The issuance of revenue bonds under the provisions of this article shall be authorized from time to time by resolution or resolutions of the board of regents [abolished], which shall set forth the proposed major renovations, repairs and safety upgrading and capital improvements authorized by section one [§ 18-12B-1] of this article; and shall provide for the issuance of bonds in amounts sufficient, when sold as hereinafter provided, to provide moneys deemed by the board of regents sufficient to pay such costs, less the amounts of any other funds available for said costs from any other moneys of the board of regents available therefor or from any appropriation, grant or gift therefor. Such resolution shall prescribe the rights and duties of the bondholders and the board of regents, and for such purpose may prescribe the form of the trust agreement hereinafter referred to. The bonds may be issued from time to time, in such amounts, shall be of such series, bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates; be in such denominations; be in such form, either coupon or registered, carrying such registration, exchangeability and interchangeability privileges be payable in such medium of payment and at such place or places within or without the State; be subject to such terms of redemption at such prices not exceeding one hundred five percent of the principal amount thereof; and be entitled to such priorities on the revenues and fees paid into the state system tuition fee special capital improvements fund as may be provided in the resolution authorizing the issuance of the bonds or in any trust agreement made in connection therewith. The bonds shall be signed by the governor, and by the president or vice president of the board of regents, under the great seal of the State, attested by the secretary of State, and the coupons attached thereto shall bear the facsimile signature of the president or vice president of the board of regents. In case any of the officers whose signatures appear on the bonds or coupons cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if such officers had remained in office until such delivery. Such revenue bonds shall be sold in such manner as the board of regents may determine to be for the best interests of the State.

Any pledge of funds and fees for such revenue bonds made by the board of regents shall be valid and binding between the parties from the time the pledge is made; and the funds so pledged shall immediately be subject to the lien of such pledge without any further physical delivery thereof or further act. The lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether such parties have notice of the lien of such pledge, and such pledge shall be a prior and superior charge over any other use of such funds so pledged.

The proceeds of such bonds shall be used solely for the payment of the cost of those major renovations, repairs and safety upgrading and capital improve-

ments as generally and specifically set forth in section one of this article, and shall be deposited in the state treasury in a special fund to be disbursed as provided by law for the disbursement of any other state funds. If the proceeds of such bonds, by error in calculations or otherwise, shall be less than the cost of such major renovations, repairs and safety upgrading and capital improvements, additional bonds may in like manner be issued to provide the amount of the deficiency; and unless otherwise provided for in the resolution or trust agreement hereinafter mentioned, such additional bonds shall be deemed to be of the same issue, and shall be entitled to payment from the same fund, without preference or priority, as the bonds before issued for major renovations, repairs and safety upgrading and capital improvements. If the proceeds of bonds issued for such major renovations, repairs and safety upgrading and capital improvements shall exceed the cost thereof, the surplus may be used for such other capital improvements as the board of regents may determine or in such other manner as the resolution authorizing such bonds may provide. Prior to the preparation of definitive bonds, the board may, under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of such definitive bonds. The term "cost," as used in this section, shall be deemed to include all of the items contemplated by the use of that term in section one of this article.

After the issuance of any of such revenue bonds, the tuition fees at the state institutions of higher education pledged therefor shall not be reduced as long as any of such revenue bonds are outstanding and unpaid except under such terms, provisions and conditions as shall be contained in the resolution, trust agreement or other proceedings under which such revenue bonds were issued.

Such revenue bonds and the revenue refunding bonds, and bonds issued for combined purposes shall, together with the interest thereon, be exempt from all taxation by the State of West Virginia, or by any county, school district, municipality or political subdivision thereof. (1977, c. 90.)

**Editor's notes.** — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

### **§ 18-12B-5. Issuance of revenue refunding bonds; use of moneys; power to enter into escrow agreements; call for redemption.**

The issuance of revenue refunding bonds under the provisions of this article shall be authorized by resolution of the board of regents [abolished] and shall otherwise be subject to the limitations, conditions and provisions of section four [§ 18-12B-4] of this article. Such revenue refunding bonds may be issued in an amount at the option of the board of regents sufficient to pay either in full or together with interest earned on the investment of the proceeds thereof, whether or not at the time of the issuance of the revenue refunding bonds the hereafter mentioned bonds are payable or callable for optional redemption, (1) the principal of any outstanding bonds heretofore issued pursuant to the provisions of article eleven-b [§ 18-11B-1 et seq.] of this chapter or this article

(hereinafter referred to as the "outstanding bonds"); (2) the redemption premium, if any, on such outstanding bonds or the prior redemption thereof; (3) the interest due and payable on such outstanding bonds to and including the first date upon which said outstanding bonds are callable prior to maturity, not exceeding, however, ten years from the date of issuance of such revenue refunding bonds, or the dates upon which the principal of said outstanding bonds mature before such first date on which the same are callable prior to maturity, including any interest theretofore accrued and unpaid; and (4) all expenses of the issuance and sale of said revenue refunding bonds, including all necessary financial and legal expenses, and also including the creation of initial debt service reserve funds. Any moneys in funds pledged with respect to the outstanding bonds may be used for any or all of the purposes stated in (1), (2), (3) and (4) above or may be deposited in a sinking fund or reserve fund or other funds for the issue of bonds which have been issued wholly or in part for the purpose of such refunding. Such amount of the proceeds of the revenue refunding bonds as shall be sufficient for the payment of the principal of, interest and redemption premium, if any, on such outstanding bonds which will not be immediately due and payable shall be deposited in trust, for the sole purpose of making such payments, with the treasurer of the State of West Virginia or the state sinking fund commission. Any of the moneys so deposited in trust may, prior to the date on which such moneys will be needed for the payment of principal of, interest and redemption premium, if any, on such outstanding bonds, be invested and reinvested as determined by the board of regents, in whole or in part: (a) in direct obligations issued by the United States of America or one of its agencies or in direct obligations of the State of West Virginia, (b) in obligations unconditionally guaranteed by the United States of America as to principal and interest, or (c) in certificates of deposit of a banking corporation or association which is a member of the federal deposit insurance corporation, or successor; but any such certificates of deposit must be fully secured as to both principal and interest by pledged collateral consisting of direct obligations of or obligations guaranteed by the United States of America, or direct obligations of the State of West Virginia, having a market value, excluding accrued interest, at all times at least equal to the amount of the principal of and accrued interest on such certificates of deposit. Any such investments must mature, or be payable in advance of maturity at the option of the holder, and must bear interest in such manner as to provide funds which, together with uninvested money, will be sufficient to pay when due or called for redemption the bonds refunded, together with interest accrued and to accrue thereon and redemption premiums, if any, and such refunding bonds' proceeds or obligations so purchased therewith shall be deposited in escrow and held in trust for the payment and redemption of the bonds refunded: Provided, That if interest earned by any investment in such escrow is shown to be in excess of the amounts required from time to time for the payment of interest on and principal of the refunded bonds, including applicable redemption premium, then such excess may be withdrawn from escrow and disbursed in such manner as the board of regents shall by resolution determine, subject to the provisions of section two [§ 18-12B-2] of

this article. Any moneys in the sinking or reserve funds or other funds maintained for the outstanding bonds to be refunded may be applied in the same manner and for the same purpose as are the net proceeds of refunding bonds or may be deposited in the special fund or any reserve funds established for account of the refunding bonds.

The authority to issue revenue refunding bonds shall be in addition to any other authority to refund bonds conferred by law.

The board of regents shall have power to enter into such escrow agreements and to insert therein such protective and other covenants and provisions as it may consider necessary to permit the carrying out of the provisions of this article and to insure the prompt payment of principal of and interest and redemption premiums on the revenue bonds refunded.

Where any revenue bonds to be refunded are not to be surrendered for exchange or payment and are not to be paid at maturity with escrowed obligations, but are to be paid from such source prior to maturity pursuant to call for redemption exercised under a right of redemption reserved in such revenue bonds, the board of regents shall, prior to the issuance of the refunding bonds, determine which redemption date or dates shall be used, call such revenue bonds for redemption and provide for the giving of the notice of redemption required by the proceedings authorizing such revenue bonds. Where such notice is to be given at a time subsequent to the issuance of the refunding bonds, the necessary notices may be deposited with the state sinking fund commission or the bank acting as escrow agent of the refunding bond proceeds and the escrow agent appropriately instructed and authorized to give the required notices at the prescribed time or times. If any officer of the public body signing any such notice shall no longer be in office at the time of the utilization of the notice, the notice shall nevertheless be valid and effective for its intended purpose. (1977, c. 90.)

**Editor's notes.** — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

#### § 18-12B-6. Bonds may be issued for combined purposes.

The board of regents [abolished] may authorize by one or more resolutions a single issue of bonds for the combined purposes of refunding the outstanding bonds as herein authorized and financing one or more of the major renovations, repairs and safety upgrading and capital improvements herein authorized. (1977, c. 90.)

**Editor's notes.** — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

#### § 18-12B-7. Bonds shall be negotiable instruments.

The revenue bonds, revenue refunding bonds and bonds issued for combined purposes under the provisions of this article shall, independently of the

requirements of any other provision of law and solely by virtue of the provisions of this section, be and have all the qualities and incidents of negotiable instruments. (1977, c. 90.)

**§ 18-12B-8. Trust agreements for holders of bonds.**

The board of regents [abolished] may enter into an agreement or agreements with any trust company, or with any bank having the powers of a trust company, either within or outside the State, to act as trustee for the holders of bonds issued hereunder, setting forth therein such duties and containing such legally binding covenants of the board of regents with the holders of the bonds in respect to the payment of the bonds, the fixing, establishing and collecting of the fees hereinbefore referred to; the acquisition, construction, improvement, maintenance, operation, repair and insurance of authorized major renovations, repairs and safety upgrading and capital improvements; the custody, safeguarding and disposition of the proceeds of the bonds, and the moneys in such special funds, sinking funds, reserve funds, or any other moneys or funds, notwithstanding provisions of this article to the contrary; the security for moneys on hand or on deposit, and the rights and remedies of the trustee and the holders of the bonds, as may be agreed upon with the purchasers of such bonds; provisions restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds and debentures of municipal corporations, protecting and enforcing the rights and remedies of the trustee and the bondholders; and provisions as to any other matters which are deemed necessary and advisable by the board of regents in the best interests of the State and to enhance the marketability of the bonds. Any such agreement entered into by the board of regents shall be binding in all respects on such board and its successors from time to time in accordance with the terms thereof; and all the provisions thereof shall be enforceable by appropriate proceedings at law or in equity, or otherwise. (1977, c. 90.)

*Editor's notes.* — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

**§ 18-12B-9. Sinking fund for payment of bonds.**

From the state system tuition fee special capital improvements fund the board of regents [abolished] shall make periodic payments to the state sinking fund commission in an amount sufficient to meet the requirements of any issue of bonds sold under the provisions of this article, as may be specified in the resolution of the board authorizing the issue thereof and in any trust agreement entered into in connection therewith. The payments so made shall be placed by the commission in a special sinking fund which is hereby pledged to and charged with the payment of the principal of the bonds of such issue and the interest thereon, and to the redemption or repurchase of such bonds, such sinking fund to be a fund for all bonds of such issue without distinction or priority of one over another, except as may be provided in the resolution authorizing such issue of bonds. The moneys in the special sinking fund, less

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such reserve for payment of principal and interest and redemption premium, if any, as may be required by the resolution of the board of regents, authorizing the issue and any trust agreement made in connection therewith, may be used for the redemption of any of the outstanding bonds payable from such fund which by their terms are then redeemable, or for the purchase of bonds at the market price, but at not exceeding the price if any, at which such bonds shall in the same year be redeemable; and all bonds redeemed or purchased shall forthwith be canceled and shall not again be issued. (1977, c. 90.)

**Editor's notes.** — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

### § 18-12B-10. Credit of State not pledged.

No provisions of this article shall be construed to authorize the board of regents [abolished] at any time or in any manner to pledge the credit or taxing power of the State, nor shall any of the obligations or debts created by the board under the authority herein granted be deemed to be obligations of the State. (1977, c. 90.)

**Editor's notes.** — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

### § 18-12B-11. Attorney general or his duly appointed legal representative to serve as bond counsel.

The attorney general, or his duly appointed legal representative, shall serve as bond counsel and shall be responsible for the issuance of a final approving opinion regarding the legality of the sale of bonds under this article. (1977, c. 90.)

### § 18-12B-12. Powers of board are supplemental; conflicting laws superseded.

The powers conferred by this article shall be in addition and supplemental to the existing powers of the board of regents [abolished]. The provisions of any other law or laws conflicting with the provisions of this article shall be and the same are hereby superseded to the extent of any such conflict. (1977, c. 90.)

**Editor's notes.** — For provisions abolishing the West Virginia board of regents, see §§ 18B-1-3, 18B-1-4.

# State of West Virginia



## Certificate

*I, Joe Manchin, III, Secretary of State of the  
State of West Virginia, hereby certify that*

**THIS IS A TRUE COPY OF CHAPTER 13, ARTICLE 2G, OF THE  
WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS  
OFFICE.**



*Given under my hand and the  
Great Seal of the State of  
West Virginia on*

August 6, 2003

A handwritten signature in black ink, appearing to read "Joe Manchin, III".

*By* *Secretary of State*  
*Administrative Assistant*

**§ 13-2F-7. Application to public obligations approved by voters.**

The provisions of this article shall be effective with respect to public obligations which have prior to the first day of July, one thousand nine hundred eighty-six, been approved by the voters of the issuer of the public obligations at an election on the question of issuing public obligations in coupon and registered form, or in coupon form only, and the public obligations need not be resubmitted to the voters for the purpose of approving the issuance of the public obligations in registered form only. (1986, c. 118.)

**ARTICLE 2G.**

**STATE REFUNDING BOND ACT.**

Sec.	Short title.	Sec.	of Legislature to apply to refunding bonds.
13-2G-1.	Short title.		
13-2G-2.	Definitions.		
13-2G-3.	Issuance of refunding bonds.	13-2G-10.	Provision for payment of the bonds to be refunded.
13-2G-4.	Security for refunding bonds.	13-2G-11.	Bonds previously issued by the board of regents.
13-2G-5.	Principal amount, use of sinking and reserve funds.	13-2G-12.	Article sufficient authority for issuing refunding bonds.
13-2G-6.	Terms of refunding bonds; time, place and amount of payments.	13-2G-13.	Issuance without election or creation of a new debt.
13-2G-7.	Sale of refunding bonds at above or below par value.	13-2G-14.	Bonds exempt from taxation.
13-2G-8.	Swap agreements.		
13-2G-9.	Certain provisions of the code or act		

**§ 13-2G-1. Short title.**

This article shall be known and may be cited as the "State Refunding Bond Act." (1992, c. 30.)

**§ 13-2G-2. Definitions.**

As used in this article, unless the context otherwise requires:

(a) "Bonds" means general obligation bonds, revenue bonds, notes or other debt instruments issued by the state, a state agency or a state authority.

(b) "Code" means the code of West Virginia, one thousand nine hundred thirty-one, as amended.

(c) "Legislature" means the Legislature of this state.

(d) "Refunding bonds" means bonds, notes or other debt instruments issued to refund all or any part of general obligation bonds, revenue bonds, notes or other debt instruments heretofore or hereafter issued or lawfully assumed by the state, a state agency or a state authority pursuant to the provisions of this code.

(e) "State" means the state of West Virginia, a state agency or a state authority.

(f) "State agency" means any office, department, cabinet, board, commission, entity, bureau, division, public corporation, agency, or instrumentality of the state authorized to issue bonds.

(g) "State authority" means any authority authorized to issue bonds, including, but without limitations, the university of West Virginia board of trustees and the board of directors of the state college system.

(h) "Swap agreement" means an agreement which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate opinion, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any similar agreement or any combination of the foregoing. (1992, c. 30.)

### § 13-2G-3. Issuance of refunding bonds.

The state may, in the manner and subject to the limitations and conditions contained in this article, issue its refunding bonds, at a public or private sale, for the purpose of refunding the bonds of the state then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. A determination by the state that any refunding is advantageous or necessary, or that any of the outstanding obligations should be called for redemption on the first or any subsequent available redemption date or permitted to remain outstanding until their respective dates of maturity, shall be conclusive: Provided, That a determination by the state to issue its refunding bonds as provided in this article is subject to the provisions of the debt management act set forth in article six-a [§ 12-6A-1 et seq.], chapter twelve of this code. (1992, c. 30.)

### § 13-2G-4. Security for refunding bonds.

Refunding bonds may be secured by a pledge of: (a) The same source of security as the bonds to be refunded; or (b) such other security as the state may lawfully pledge, or both. (1992, c. 30.)

### § 13-2G-5. Principal amount, use of sinking and reserve funds.

(a) The total amount of refunding bonds to be issued under this chapter shall be an amount sufficient to effect the refunding and may include an amount sufficient to pay (1) the principal amount outstanding of the bonds to be refunded, (2) interest accrued or to accrue to the date of maturity or the date of redemption of the bonds to be refunded (which need not necessarily be on the first available redemption date), (3) any redemption premiums to be paid thereon, (4) any reasonable expenses incurred in connection with such refunding and (5) any other reasonable costs deemed appropriate by the state, including without limitation, the expenses of preparing and delivering the refunding bonds, legal fees, financial advisor fees, consultant fees, and other expenses incurred in connection with the issuance, sale and delivery of the refunding bonds.

(b) Any money in a sinking fund or reserve fund or other fund for the bonds to be refunded may be used to pay the principal of, premium, if any, or interest

§ 13-2G-6

PUBLIC BONDED INDEBTEDNESS

on the outstanding bonds to be refunded or may be deposited in a sinking fund or reserve fund or other fund for the refunding bonds. (1992, c. 30.)

**§ 13-2G-6. Terms of refunding bonds; time, place and amount of payments.**

Upon determining the issue of such refunding bonds, the state shall, by resolution, authorize the issuance of such bonds in an amount not exceeding the amount permitted by this article, fix the date thereof, the rate or rates of interest which such bonds shall bear, and when and where they are payable. (1992, c. 30.)

**§ 13-2G-7. Sale of refunding bonds at above or below par value.**

All refunding bonds issued by the state may be sold at a price equal to, above or below par value and accrued interest as the state may direct. Refunding bonds may also be sold at a zero (0) rate of interest or at an original issue discount. (1992, c. 30.)

**§ 13-2G-8. Swap agreements.**

The state may from time to time enter into one or more swap agreements that it determines to be necessary or desirable in connection with, or incidental to, or in lieu of the issuance of its refunding bonds. Swap agreements entered into by the state shall contain such provisions, including payment, term, security, default and remedy provisions, and shall be with such parties, as the state shall determine to be necessary or desirable after due consideration to the creditworthiness of such parties. (1992, c. 30.)

**§ 13-2G-9. Certain provisions of the code or act of Legislature to apply to refunding bonds.**

All the provisions of this code or any act of the Legislature, relating to bonds issued for original indebtedness and insofar as such provisions may be applicable, shall apply to the same extent and with equal force and effect to refunding bonds issued under the provisions of this article. (1992, c. 30.)

**§ 13-2G-10. Provision for payment of the bonds to be refunded.**

(a) It is the intention of this article to authorize the state to issue bonds for the purpose of refunding outstanding bonds without thereby contracting any additional indebtedness, and it shall be conditional upon the delivery of any refunding bonds that sufficient funds are held in trust to provide for the payment of the principal of, premium, if any, and interest on the bonds to be refunded. It is the further intention of this article that any amounts received by the issuance of any refunding bonds pursuant to this article be used solely

for the purposes set forth in subsection (a), section five [§ 13-2G-5(a)] of this article and not be used for incurrence of additional debt.

(b) For all purposes of this section, bonds shall be considered to have been canceled and paid in advance of their due date or date of redemption if there shall have been deposited in trust for the benefit of holders of the bonds to be refunded:

(1) Moneys sufficient to pay when and as due all amounts of principal and interest payable on such bonds; or

(2) Direct obligations of the United States of America or the state, or obligations fully and irrevocably secured as to the payment of both principal and interest by such direct obligations the payment on which when due will provide moneys, sufficient to pay when and as due all amounts of principal and interest payable on such bonds.

(c) All such amounts shall be set aside and held in trust and irrevocably dedicated solely to the payment of such bonds, except that amounts in excess of the amounts required for the payment of the bonds so refunded may be applied to the payment of costs related to the issuance, carrying, insuring or servicing the refunding bonds, including costs of credit or market enhancement services, such as letters of credit, remarketing arrangements and similar services. Any amount deposited pursuant to this section may include amounts already held on deposit in trust for the payment of the bonds to be refunded. (1992, c. 30.)

#### **§ 13-2G-11. Bonds previously issued by the board of regents.**

In connection with or incident to the refunding of any bonds previously issued by the board of regents' pursuant to any prior enactment of chapter eighteen [§ 18-1-1 et seq.] of the code, or the board of regents' predecessor in interest, the university of West Virginia board of trustees and the board of directors of the state college system, as the transferees of all powers, duties and authorities of the board of regents pursuant to chapter eighteen-b [§ 18B-1-1 et seq.] of the code, are authorized to make one or more written agreements with regard to which entity is obligated to provide for the payment of such bonds previously issued by the board of regents and with regard to the allocation of revenues to be dedicated to the payment of refunding bonds. (1992, c. 30.)

#### **§ 13-2G-12. Article sufficient authority for issuing refunding bonds.**

This article shall, without reference to any other act of the Legislature, be full authority for the issuance, sale and exchange of bonds in this article authorized. No order, ordinance, resolution or proceeding in respect to the issuance of any bonds hereunder shall be necessary except such as are required by this article. No publication of any notice, order, ordinance or proceeding relating to the issuance of such bonds shall be necessary. (1992, c. 30.)

**§ 13-2G-13. Issuance without election or creation of a new debt.**

The issuance, sale or exchange of bonds authorized in this article may be had without an election and shall not be deemed to create a new debt as long as provision has been made to pay the principal of, premium, if any, and interest on the bonds to be refunded as provided in section seven [§ 13-2G-7] of this article. (1992, c. 30.)

**§ 13-2G-14. Bonds exempt from taxation.**

All bonds of the state, a state agency or state authority issued hereunder shall be exempt from all state, county, and municipal taxes, and the exception shall include income, inheritance and property taxes. (1992, c. 30.)

**ARTICLE 3.**

**MUNICIPAL BOND COMMISSION.**

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| <p>Sec.<br/>13-3-1. Commission continued.<br/>13-3-2. Composition of commission; terms of appointment; vacancies; removal from office.<br/>13-3-3. Officers; employees; chief administrative officer; meetings; quorum; compensation and expenses; legal representation.<br/>13-3-4. Executive committee; powers and duties.<br/>13-3-5. Officer and employee bonds.<br/>13-3-5a. Costs and expenses; fees for services.<br/>13-3-6. Powers and duties of commission.<br/>13-3-7. Permissible investments; limitations and prohibitions on purchase, sale or exchange of securities; public records; combining funds and proration of interest; custody of securities.</p> | <p>Sec.<br/>13-3-7a. Escrowing bond issues.<br/>13-3-8. Notification by issuer of bond sale.<br/>13-3-9. Collection, deposit and accounting funds; insufficient deposit; withdrawal of additional funds.<br/>13-3-10. Accounts of bond issues; annual statements, canceled bonds and coupons.<br/>13-3-11. Statement by commission to political subdivision showing levy required; determination of levy.<br/>13-3-12. Destruction of canceled bonds and coupons.<br/>13-3-13. Substitute paying agents.<br/>13-3-14. Authorizing the transfer and investment of funds raised by levy, sale of bonds or otherwise.<br/>13-3-15. Reports of commission.</p> |
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**Revision of article.** — Acts 1977, c. 153, revised this article, substituting present §§ 13-3-1 to 13-3-15 for former §§ 13-3-1 to 13-3-13. No detailed explanation of the changes made by the 1977 act has been attempted, but, where appropriate, the historical citations to the sec-

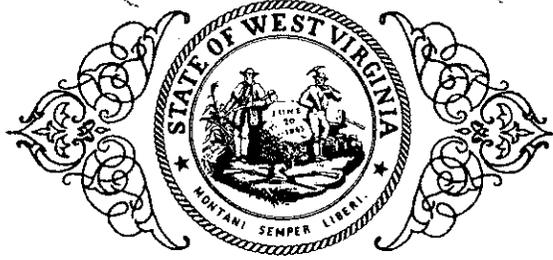
tions of the former article have been added to the corresponding sections of the revised article.

**Editor's notes.** — The municipal bond commission was transferred to the department of tax and revenue in 1989. See § 5F-2-1.

**§ 13-3-1. Commission continued.**

The state sinking fund commission is hereby continued in all respects as heretofore constituted under prior provisions of this article, but is hereby

# State of West Virginia



## Certificate

*I, Joe Manchin, III, Secretary of State of the State of West Virginia, hereby certify that*

*Each of the following named persons were appointed by the Governor of the State of West Virginia as a member of the Higher Education Policy Commission and ever since such appointment has been qualified and acting as such member, and that the dates of commencement and expiration of their respective terms of office are as follows; each such member remaining duly qualified and acting in office until his successor shall be duly appointed by the Governor of the State of West Virginia:*

*J. Thomas Jones Ex Officio Member - June 30, 2000 to June 30, 2004*

*John R. Hoblitzell - June 30, 2000 to June 30, 2004*

*Mary Clare Eros - July 7, 2003 to June 30, 2007*

*Terry Sammons - July 8, 2002 to June 30, 2005*

*Richard J. Shearer - July 5, 2000 to June 30, 2003*

*Shawn Williams - June 30, 2000 to June 30, 2003*

*Elliot G. Hicks - July 31, 2002 to June 30, 2006*

*Richard K. Hall Ex Officio Member - September 19, 2002 to June 30, 2005*



*Given under my hand and the Great Seal of the State of West Virginia on*

*August 6, 2003*

*Joe Manchin III*  
Secretary of State



\$22,160,000  
State of West Virginia  
Higher Education Policy Commission  
Revenue Refunding Bonds  
(College Facilities)  
2003 Series A

BOND PURCHASE AGREEMENT

July 31, 2003

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East  
Suite 700  
Charleston, West Virginia 25301

Ladies and Gentlemen:

Citigroup Global Markets Inc., acting on behalf of itself, Crews & Associates, Inc. and Ferris, Baker Watts, Incorporated (collectively, the "Underwriter"), hereby offers to enter into this Bond Purchase Agreement with the West Virginia Higher Education Policy Commission (the "Commission") for the sale by the Commission and the purchase by the Underwriter of the Bonds in the aggregate principal amount of \$22,160,000 (the "Bonds") described herein and in the Official Statement (defined herein), which are being issued by the Commission. Upon your acceptance of this offer and your execution and delivery of this Bond Purchase Agreement (hereinafter referred to as the "Bond Purchase Agreement"), this Bond Purchase Agreement will be binding upon you and the Underwriter. This offer is made subject to your acceptance, evidenced by your execution and delivery of this Bond Purchase Agreement to the Underwriter, at or prior to 11:30 p.m., New York, New York time, on the date hereof, and will expire if not so accepted at or prior to such time (or such later time as the Underwriter may agree to in writing).

1. Definitions. The capitalized terms used in this Bond Purchase Agreement shall have the meanings assigned to them herein or, if not defined herein, shall have the meanings set forth in the Resolution as amended and the Certificate of Determinations (collectively, the "College Documents"). This Bond Purchase Agreement, the Official Statement, the Preliminary Official Statement, the College Documents, the Tax Regulatory Agreement and the Continuing Disclosure Agreement are sometimes herein referred to as the "Bond Documents."

2. Closing. Delivery and acceptance of the Bonds and payment therefor (the "Closing") will take place in Charleston, West Virginia, at the offices of Spilman Thomas & Battle, Charleston, West Virginia, on August 13, 2003 (the "Closing Date") by 1:00 p.m. or at such other place or time as may be mutually agreed upon by you and the Underwriter. The Bonds will be available in definitive form at the offices of The Depository Trust Company (or the Registrar, if "DTC-Fast" delivery is used) not less than twenty-four hours prior to the Closing Date.

### 3. Purchase and Sale.

3.1 Subject to the terms and conditions set forth in this Bond Purchase Agreement, and upon the basis of the representations hereinafter set forth, the Underwriter hereby agrees to purchase from the Commission, and the Commission hereby agrees to sell to the Underwriter when, as and if issued, all (but not less than all) of the Bonds identified in Exhibit A attached hereto for a total purchase price equal to the Net Purchase Price set forth in Exhibit A, in immediately available funds.

3.2 The Bonds will (i) be issued pursuant to the College Documents and (ii) have the payment related terms (that is, dated dates, principal or issuance amounts, maturity dates, interest rates and yield to maturity) set forth in Exhibit A attached hereto, and will otherwise correspond to the description thereof contained in the Official Statement referred to in Section 3.3.

3.3 Within seven business days of its acceptance hereof, the Commission shall deliver to the Underwriter a reasonable number of copies of a final Official Statement of the Commission of even date herewith, executed by the Commission (the "Official Statement"). The Official Statement shall be in substantially the same form as that of the Preliminary Official Statement of the Commission dated July 28, 2003 (the "Preliminary Official Statement"), previously distributed with respect to the Bonds.

### 4. Concurrent Matters.

4.1 Your acceptance, execution and delivery of this Bond Purchase Agreement will constitute your acknowledgment that the Underwriter (a) proposes to make a public offering of the Bonds at the initial offering prices or yields set forth in the Official Statement (which such initial offering prices or yields may be changed by the Underwriter, in its sole discretion), (b) may effect transactions that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market and may discontinue such stabilizing, if commenced, at any time and (c) may change the offering prices of the Bonds from time to time and may offer the Bonds to certain dealers and others at prices lower than the public offering prices shown on the front cover (or inside front cover) of the Official Statement.

4.2 Your acceptance, execution and delivery of this Bond Purchase Agreement will constitute (i) your consent and authorization to the use by the Underwriter, in connection with the public offering and sale of the Bonds, of copies of the Official Statement and the information, contained therein, and (ii) your ratification of the use by the Underwriter, in connection with such offering and sale, of the Preliminary Official Statement and the information contained therein.

### 5. Representations and Warranties.

5.1 The Commission hereby makes the following representations and warranties to the Underwriter:

(a) The Commission is a commission, created pursuant to Chapter 18B, Article 1B of the West Virginia Code of 1931, as amended, and authorized to issue the Bonds pursuant thereto and by Chapter 18, Article 12B and Chapter 13, Article 2G of the West Virginia Code of 1931, as amended (collectively, the "Act.")

(b) The predecessor to the Commission duly adopted the General Resolution, which has been amended and supplemented by the First through Sixth Supplemental Resolutions (as defined in the College Documents). The Commission has adopted the Fourth Supplemental Resolution, the Fifth Supplemental Resolution and the Sixth Supplemental Resolution, and such Resolutions have not been rescinded, amended or modified.

(c) When delivered to the Underwriter against payment therefor in accordance with the provisions of this Bond Purchase Agreement, the Bonds will have been duly authorized, executed, authenticated, issued and delivered.

(d) The execution and delivery by the Commission of the Bond Documents and the consummation by the Commission of the transactions contemplated thereby are not prohibited by, do not violate any provision of, and will not result in the breach of or default under the Act, or, to its knowledge, any applicable law, rule, regulation, judgment, decree, order or other requirement, or any material contract, indenture, agreement or commitment to which the Commission is a party or by which it is bound.

(e) The Commission is not in breach of or in default under any existing law, court or administrative regulation, judgment, decree, order, agreement, mortgage, lease, loan agreement or other instrument to which it is a party or by which it is bound. No event has occurred or is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under the Bond Documents or any other agreement or instrument to which the Commission is a party, or by which it may be bound or to which any of its property is or may be subject.

(f) The Commission has duly authorized all necessary action to be taken by it for (i) the issuance and sale of the Bonds by the Commission upon the terms and conditions set forth herein, in the Official Statement and in the Indenture and the approval of the Official Statement, the Indenture and the Bonds, and (ii) the execution, delivery and receipt of the Bond Documents and any and all such other agreements and documents as may be required to be executed, delivered and received by the Commission in order to carry out, effectuate and consummate the transactions contemplated in the Bond Documents.

(g) The information contained in the Preliminary Official Statement and the Official Statement relating to the Commission and its properties, operations and financial and other affairs, including Appendices A and B, is true and correct in all respects and does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(h) Except as may be described in the Preliminary Official Statement and the Official Statement, there is no legal action, or other proceeding, or any investigation or inquiry (before or by any court, agency, arbitrator or other entity or person) pending or, to the knowledge of the Commission, threatened against or affecting the Commission which would restrain or enjoin the issuance or delivery of any of the Bonds or the collection of Revenues pledged under the Resolution or in any way would contest or affect the organization or existence of the Commission or the entitlement of any officers of the Commission to their respective offices or which may reasonably be expected to have a material and adverse effect upon (A) the due performance by the Commission of the transactions contemplated by the Bond Documents, (B) the validity or enforceability of the Bonds, the College Documents, the Bond Documents, or any other agreement or instrument to which the Commission is a party and that is used or contemplated for use in consummation of the transactions contemplated hereby and thereby or (C) the exclusion of the interest on the Bonds from gross income for federal income tax purposes and the exemption from State income taxation of the Bonds and interest thereon as set forth in the Official Statement. The Commission is not subject to any judgment, decree or order entered in any lawsuit or proceeding brought against it that may reasonably be expected to have such an effect.

(i) The Commission has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the Commission is a Commission whose arbitrage certifications may not be relied upon.

(j) The Bond Documents, when executed and delivered by, the Commission, will be, and this Bond Purchase Agreement constitutes, the legal, valid and binding obligations of the Commission, enforceable in accordance with their terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally and as to the availability of equitable remedies.

(k) When the Bonds are issued, sold and delivered to the Underwriter, the representations and certifications of the Commission herein and in the other Bond Documents will be true, accurate and complete.

(l) The general purpose audited financial statements for the year ended June 30, 2002, contained in the Preliminary Official Statement and the Official Statement as Appendix B presents fairly the financial position of Commission's College System Bonds at the date indicated and the results of operations for the period specified, and such financial statements; have been prepared in conformity with generally accepted accounting principles (or, alternatively, generally accepting auditing principles) consistently applied in all material respects to the periods involved, except as otherwise stated in the notes thereto.

(m) Since June 30, 2002, there has been no material adverse change in the financial position or results of operations of the Commission, nor has the Commission incurred any material liabilities except as set forth in the Preliminary Official Statement and the Official Statement or disclosed to the Underwriter in writing.

(n) The Commission deems the Preliminary Official Statement to be final as of its date in accordance with subsection (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The Commission deems the Official Statement to be final and complete as of its date for purposes of subsection (b)(3) of such Rule.

(o) Except as described in the Official Statement and Preliminary Official Statement, the Commission is in compliance with all continuing disclosure agreements or certificates heretofore delivered by the Commission in connection with the issuance of any Prior Bonds.

6. Covenants.

6.1 The Commission hereby makes the following covenants with the "Underwriter":

(a) The Commission will not supplement or amend the Official Statement or cause the Official Statement to be supplemented or amended without the prior written consent of the Underwriter.

(b) Prior to the Closing Date, the Commission will not amend, terminate or rescind, and will not agree to any amendment, termination or rescission of, the College Documents or the Bond Documents without the prior written consent of the Underwriter.

(c) Prior to the Closing Date, the Commission will not create, assume or guarantee any indebtedness payable from, or pledge or otherwise encumber, the revenues, assets, properties, funds or interest which will be pledged pursuant to the College Documents or the Bond Documents.

(d) The Commission will promptly advise the Underwriter of any matter arising or occurring or discovered before Closing or within 90 days after the end of the underwriting period for the Bonds (within the meaning of Rule 15c2-12 under the Exchange Act) that if existing or known at the date hereof would render any of the representations or warranties set forth herein to be untrue or misleading or might adversely affect the correctness or completeness of any statement of a material fact contained in the Official Statement.

(e) If as the result of any matters described in paragraph (d) of this Section it becomes necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement to make the statements contained therein, in light of the circumstances under which they were made, not misleading, the Commission will, upon notice thereof, promptly prepare and furnish to the Underwriter (at the expense of the Commission) a reasonable number of copies of an amendment of, or a supplement to, the Official Statement (in form and substance satisfactory to the Underwriter) so that, as amended or supplemented, it will not contain any untrue statement of a material fact or omit to state a material fact that is necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(f) Except as disclosed in the Official Statement, prior to the Closing Date, the Commission will obtain or cause to be obtained all governmental consents, approvals, orders or authorizations (other than state securities law clearances) of any governmental authority or agency

that would constitute a condition precedent to the performance by Commission of its obligations under the Resolution, the Bond Documents or the Bonds.

(g) The Commission will not voluntarily undertake any course of action inconsistent with the satisfaction of the requirements applicable to it as set forth in the Bond Documents.

(h) The Commission will cooperate with the Underwriter in the qualification of the Bonds for offering and sale and the determination of their eligibility for investment under the laws of such jurisdictions as the Underwriter might designate, the cost of which will be borne by the Underwriter, as provided in Section 10.2(iii) below.

(i) The Commission will not, except as required by law, take or omit to take any action which, under existing law, adversely affects the exemption from federal income taxation of the interest on the Bonds, or adversely affects the West Virginia State tax exemptions with respect to the Bonds and the interest thereon, as set forth in the Official Statement.

(j) The Commission agrees to comply with all provisions of the Continuing Disclosure Agreement.

## 7. Conditions of Closing.

7.1 The obligations of the Underwriter to consummate the transactions contemplated hereby are subject to receipt by the Underwriter of the items described in Section 7.2 hereof and to the satisfaction (unless waived by the Underwriter in its sole discretion) of the following conditions:

(a) The representations and warranties made by the Commission in this Bond Purchase Agreement shall be true and correct as of the Closing Date as if made on such date.

(b) The Commission shall have performed and complied with all agreements and conditions required by this Bond Purchase Agreement to be performed or complied with prior to closing.

(c) The Bond Documents each shall have been executed and delivered by each of the parties thereto, shall be in full force and effect on and as of the Closing Date and shall not have been amended, modified or supplemented prior to the Closing Date except as may have been agreed to in writing by the Underwriter.

(d) The proceeds of the sale of the Bonds shall be applied as described in the Official Statement.

7.2 In addition to the conditions set forth in Section 7.1, the obligations of the Underwriter to consummate the transactions on the Closing Date contemplated hereby are subject to receipt by the Underwriter of the following items:

(a) An approving opinion of Spilman Thomas & Battle, PLLC, Bond Counsel, in form

and substance satisfactory to the Underwriter, dated the Closing Date with respect to the validity and tax-exempt nature of the Bonds, and a supplementary opinion of Bond Counsel, dated the date of Closing, addressed to the Underwriter, to the effect that: (i) this Bond Purchase Agreement has been duly authorized, executed and delivered by the Commission, (ii) the Official Statement has been duly approved, signed and delivered by the Commission, (iii) assuming due authorization, execution and delivery by the other parties thereto, the Bond Documents have been duly authorized, executed, acknowledged and delivered by the Commission, and are legal, valid and binding agreements of the Commission enforceable in accordance with their respective terms (except as enforcement of remedies may be limited by bankruptcy, insolvency or other laws and equitable principles affecting the right of creditors), (iv) the statements contained in the Official Statement under the captions "Introductory Statement," "The Bonds," "Security for the Bonds," (excepting matters as to Depository Trust Company and the Book-Entry-Only System) "Tax Matters," "Amendments to the Resolution," Appendix E - Summary of Certain Provisions of the Principal Documents," and "Appendix F - Proposed Form of Opinion of Bond Counsel" do not contain any untrue statement of a material fact or omit to state a material fact necessary to make such statements, in light of the circumstances under which they were made, not misleading in any material respect, and (v) the Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Indenture is exempt from qualification as an indenture pursuant to the Trust Indenture Act of 1939, as amended.

(b) An opinion of Bruce R. Walker, Counsel to the Commission, addressed to, among others, Bond Counsel, the Bond Insurer and the Underwriter, in form and substance satisfactory to Bond Counsel and the Underwriter, dated the Closing Date, to the effect that: (i) no litigation is pending or, to his knowledge, threatened (a) to restrain or enjoin the issuance or delivery of any of the Bonds or the collection of Revenues pledged under the College Documents and the Bond Documents, (b) in any way contesting the power or the authority of the Commission for the issuance of the Bonds or the validity of the Bonds, or the Bond Documents, (c) in any way contesting the existence or powers of the Commission relating to the issuance of the Bonds, (ii) to the best of his knowledge, no event affecting the Commission has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purpose for which it is to be used or that is necessary to disclose therein in order to make the statements and information therein with respect to the Commission not misleading in any material respect, (iii) the Commission is a commission of the State existing under the provisions of the Act, and has full legal right, power and authority to enter into the Bond Documents and each constitutes the legal, valid and binding agreement of the Commission enforceable in accordance with its respective terms (subject to bankruptcy, insolvency and other laws affecting the rights of creditors generally and to general principles of equity), and compliance with the provisions of each thereof will not conflict with or constitute a violation or breach of or default under any existing law or administrative rule or regulation, or any court order or decree or any agreement, contract or other instrument, to which the Commission is party or otherwise subject or bound, (v) the Official Statement has been duly approved, executed and delivered by the Commission, and (vi) the statements contained in the Official Statement under the captions "The Commission," "Registration and Other Student Fees," "Capital Budgeting and Planning," "State Appropriations for Higher Education," "Student Enrollment," "Plan of Refunding," "Litigation," and "Continuing Disclosure" (as such information pertains to the Commission) do not contain any untrue statement of a material fact or omit to state a

material fact necessary to make such statements, in light of the circumstances under which they were made, not misleading in any material respect.

(c) An opinion of Goodwin & Goodwin, LLP, Counsel to the Underwriter, in form and substance satisfactory to the Underwriter, addressed to the Underwriter and the Bond Insurer.

(d) A certificate of the Commission, dated the Closing Date, signed by an officer of the Commission to the effect that (i) the representations and warranties made by the Commission in this Bond Purchase Agreement are true and correct as of the Closing Date with the same effect as if made on the Closing Date; (ii) the Commission has performed and complied with all agreements and conditions required by this Bond Purchase Agreement to be performed or complied with by it at or prior to the Closing Date; (iii) since the respective dates as of which information is given in the Official Statement, and except as set forth therein, there has not been any material or adverse change in the Commission's condition, financial or otherwise; (iv) the Official Statement, insofar as it relates to the Commission, does not include any untrue statement of a material fact or omit to state any material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, (v) that subsequent to June 30, 2002, the date the most recent general purpose audited financial statements included as Appendix B of the Official Statement, there has been no material adverse change in the financial position or results of operations of the Commission, (vi) that no litigation is pending or, to the knowledge of the Commission, threatened against the Commission or its officers (A) to restrain or enjoin issuance or delivery of any of the Bonds or the collection of Revenues pledged under the Resolution, (B) in any way contesting or affecting any authority for the issuance of the Bonds, or the validity of the Bonds, or the Bond Documents, (C) in any way contesting or affecting the existence or powers of the Commission or its ability to perform its obligations under the Bond Documents, or (D) that may materially adversely affect the financial condition or operations of the Commission, (vii) that the Commission has satisfied all conditions pertaining to the issuance of the Bonds pursuant to the College Documents and all other applicable provisions, and (viii) that no event affecting the Commission, or the transactions contemplated by the Official Statement or the Bond Documents has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used, or which it is necessary to disclose therein in order to make the statements and information therein, in the light of the circumstances under which they were made, not misleading.

(f) A Certificate dated as of the Closing Date signed by an authorized officer of the Commission, sufficient in form and substance to show to the satisfaction of Bond Counsel and the Underwriter that the Bonds will not be arbitrage bonds under Section 148 of the Code and the regulations thereunder, which certificate shall conform to the requirements of said regulations.

(g) A certified copy of the College Documents authorizing the execution and delivery by the Commission of the Bond Documents, certified by its Secretary.

(h) One executed original of each of the Bond Documents.

(i) The executed IRS Form 8038-G to be filed with the Internal Revenue Service.

(j) Evidence satisfactory to the Underwriter that the financial guaranty insurance policy relating to the Bonds issued by MBIA Insurance Corporation (the "Bond Insurer") has been delivered to the Trustee.

(k) Evidence satisfactory to the Underwriter that the Bonds have been rated Aaa by Moody's Investors Service ("Moody") and AAA by Standard & Poor's Ratings Group, a division of the McGraw Hill Companies, Inc. ("S & P") and that the Bonds have received an underlying rating of A2 by Moody's and "A+" by S & P.

(l) A verification report from Causey Demgen & Moore, Inc., verifying the accuracy of the arithmetical computations of the adequacy of maturing amounts of principal and interest on the government obligations placed in escrow to pay, when due, the principal of, premium, if any, and the interest on the Refunded Bonds.

(m) Such additional legal opinions, certificates and other documents as the Underwriter or Bond Counsel reasonably may deem necessary to evidence the truth and accuracy as of the Closing Date of the representations and warranties of the Commission herein contained and of the Official Statement, and to evidence compliance by the Commission with this Bond Purchase Agreement and all applicable legal requirements, and the due performance and satisfaction by the Commission at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by either of them.

7.3 If any of the conditions set forth in Section 7.1 or 7.2 has not been met on the Closing Date, the Underwriter may, in its sole discretion, terminate this Bond Purchase Agreement or proceed to Closing upon waiving any rights under this Bond Purchase Agreement with respect to any such condition. If this Bond Purchase Agreement is terminated pursuant to this Section, neither party will have any rights or obligations to the other, except as provided in Sections 10 and 11 herein.

8. Actions and Events at the Closing. The following events will take place at closing:

(a) The Commission will direct the Trustee to authenticate and deliver the Bonds to the Underwriter, at the place established pursuant to Section 2 herein. Each of the Bonds so delivered will be in definitive form or, with the consent of the Underwriter, in temporary form, duly executed on behalf of the Commission, in denominations or maturity amounts of five thousand dollars (\$5,000) or any integral multiple thereof, and will be fully registered in such names and amounts as the Underwriter will request at least four (4) business days prior to the Closing Date. In the event the Bonds are delivered in temporary form, the Commission shall deliver the Bonds in definitive form on such date as the Underwriter may reasonably require.

(b) The Commission will deliver or cause to be delivered at Closing to the Underwriter the documents described in Section 7.2 hereof.

(c) The Underwriter will deliver to the Trustee, for the account of the Commission,

immediately available funds in an amount equal to the purchase price of the Bonds set forth as the Purchase Price in Exhibit A hereto.

9. Termination of Bond Purchase Agreement. The Underwriter may terminate this Bond Purchase Agreement without liability therefor (except as provided under Section 10) by notice to the Commission at any time at or prior to the Closing if:

(a) Any legislation is introduced in, or enacted by, the United States Congress, or shall have been reported out of committee, or any decision is rendered by any court of competent jurisdiction or any ruling or regulation, temporary regulation, release or announcement shall have been issued or proposed by the Treasury Department of the United States, the Internal Revenue Service, or any other agency of the government of the United States that, in the reasonable opinion of the Underwriter, has the purpose or effect of subjecting interest on the Bonds to inclusion in gross income for federal income tax purposes or has a material and adverse effect upon the ability of the Underwriter to sell the Bonds at the contemplated offering prices;

(b) Any legislation, ordinance, rule or regulation is introduced in, or enacted by, any governmental body, department or agency of the State of West Virginia, or shall have been reported out of committee, or a decision by any court of competent jurisdiction within the State of West Virginia is rendered, that, in the reasonable opinion of the Underwriter, has the purpose or effect of subjecting the Bonds or the interest thereon to West Virginia State income taxation or otherwise has a material and adverse effect upon the ability of the Underwriter to sell the Bonds at the contemplated offering prices;

(c) Any other action or event shall exist or have transpired which has the purpose or effect, directly or indirectly, of materially adversely affecting the federal or West Virginia income tax consequences of the transactions contemplated by the Official Statement, and in the reasonable opinion of the Underwriter, materially adversely affects the market for the Bonds or the sale at the contemplated offering prices by the Underwriter of the Bonds;

(d) Any fact exists or any event occurs that, in the reasonable opinion of the Underwriter, makes untrue or incorrect in any material respect any statement or information in the Official Statement or causes the Official Statement to contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading for the purposes for which the Official Statement is to be used;

(e) Any amendment of or supplement to the Official Statement is distributed (whether or not such amendment or supplement was approved by the Underwriter prior to its distribution) which, in the reasonable opinion of the Underwriter, has a material and adverse effect upon the ability of the Underwriter to sell the Bonds at the contemplated offering prices;

(f) There shall have occurred any outbreak, continuation or resumption of hostilities, whether declared or undeclared, or other national or international calamity or crisis, which, in the reasonable opinion of the Underwriter, has a material and adverse effect upon the ability of the

Underwriter to sell the Bonds at the contemplated offering prices;

(g) Any legislation is introduced in, or enacted by the United States Congress, or any action is taken by, or on behalf of, the Securities and Exchange Commission, that in the opinion of the Underwriter has the effect of requiring (i) the registration of a security under the Securities Act of 1933, as amended, or the qualification of an indenture under the Trust Indenture Act of 1939, as amended, in connection with the offering and sale of the Bonds or (ii) any governmental consents, approvals, orders or authorizations for the consummation of the transactions contemplated by this Bond Purchase Agreement, the Official Statement, or the other Bond Documents, which cannot, without undue expense, be obtained prior to the Closing Date;

(h) There shall have occurred a general suspension of trading on the New York Stock Exchange, or a general banking moratorium is declared by the United States or by the State of West Virginia authorities, that, in the reasonable opinion of the Underwriter, has a material and adverse effect upon the ability of the Underwriter to sell the Bonds at the contemplated offering prices;

(i) Any fact exists or any event occurs that is not disclosed in the Preliminary Official Statement which after disclosure in the Official Statement affects the ability of the Underwriter to sell the Bonds at the contemplated offering prices; or

(j) Moody's or S & P shall have notified the Underwriter that either of their respective ratings of the Bonds will be lower than that set forth above.

#### 10. Expenses.

10.1 The Commission will pay or cause to be paid from proceeds of the Bonds or otherwise (i) fees and expenses of bond counsel, counsel to the Commission, and Underwriter's counsel; (ii) premiums for bond insurance and/or costs in connection with other credit enhancement for the Bonds; (iii) rating agency fees; (iv) initial fees of the Registrar and Paying Agent; (v) fee for obtaining "CUSIP Numbers" for the Bonds; (vi) costs of preparing, printing, mailing and delivering the Preliminary Official Statement and the Official Statement and any amendments or supplements thereto; and (vii) any other costs and expenses of the issue not set forth in Section 10.2 below.

10.2 The Underwriter will pay (i) sales commissions associated with marketing the Bonds; (ii) costs of qualification of the Bonds for sale under the securities or "Blue Sky" laws of various jurisdictions; (iii) initial fees relating to The Depository Trust Company; and (iv) costs and expenses incurred by the Underwriter in connection with the preparation, offering and distribution of the Bonds, including but not limited to advertising, local and long distance telephone, and travel expenses, as well as management fees in connection with such offering.

10.3 In the event that the Commission or the Underwriter shall have temporarily paid obligations of the other as set forth in this Section, appropriate adjustments will promptly be made.

10.4 Nothing herein will limit the rights of the Commission to take action against the

Underwriter for default of its responsibilities hereunder or for its actions or inactions regarding the matters contemplated herein.

## 11. Indemnification.

11.1 To the extent permitted by the laws of the State, the Commission agrees to indemnify and hold harmless the Underwriter, each director, officer, attorney, agent or employee of the Underwriter, and each person, if any, who controls the Underwriter within the meaning of the Securities Act of 1933, as amended, or within the meaning as determined by the Office of the Comptroller of the Currency (each hereafter, an "Indemnified Party"), from and against all losses, claims, damages, liabilities, settlements and expenses, joint or several, to which each Indemnified Party may become subject, under federal laws or regulations or otherwise, insofar as such losses, claims, damages, liabilities, settlements and expenses, or actions in respect thereof (i) arise out of or are based upon any untrue statement or alleged untrue statement of any material fact pertaining to the Commission as set forth in the Official Statement, or any amendment or supplement thereto, or the Preliminary Official Statement, or arise out of or are based upon the omission or alleged omission to state therein a material fact pertaining to the Commission required to be stated therein or necessary to make the statements therein not misleading, or (ii) arise out of or are based upon any claim that the issuance of the Bonds violated any requirements contained in pre-existing bond documents, and the Commission will assume the defense of any action against any Indemnified Party based upon allegations of any such loss, claim, damage, liability or action, including the retaining of counsel approved by the Indemnified Party (which approval shall not be unreasonably withheld) and the payment of reasonable counsel fees and all other expenses relating to such defense, provided, however, that each Indemnified Party may retain separate counsel in any such action and may participate in the defense thereof (at its expenses, unless the retention of such counsel has been specifically authorized by the Commission); and provided further, that the Commission will not be liable to the Underwriter or any Indemnified Party related to it, in any such case to the extent that any such loss, claim, damage, liability and expense arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in any such documents under the caption "Underwriting."

11.2 Promptly after receipt by an Indemnified Party under this Bond Purchase Agreement of notice of the commencement of any action, such Indemnified Party will, if a claim in respect thereof is to be made against the Commission under this Bond Purchase Agreement, notify the Commission of the commencement thereof, but failure to give such notice shall not relieve the Commission of its indemnification obligations under this Bond Purchase Agreement unless and to the extent that such failure causes actual harm or prejudice to the Commission. In case any such action is brought against any Indemnified Party, and it notifies the Commission of the commencement thereof, the Commission (i) will assume the defense thereof if and as required under this Bond Purchase Agreement, with counsel satisfactory to the Indemnified Party or (ii) if not required to assume the defense, will be entitled to participate in, and, to the extent that it may wish, jointly with any other Indemnifying Party similarly notified, to assume the defense thereof, with counsel satisfactory to such Indemnified Party. After notice from the Commission to such Indemnified Party of its assumption of the defense, the Commission will not be liable to such Indemnified Party in connection with the defense thereof other than for reasonable expenses

incurred by the Indemnified Party and its counsel, reimbursement of out-of-pocket expenses and other reasonable costs of investigation or participation in the defense of the claim.

12. Miscellaneous.

12.1 All notices, demands and formal actions hereunder will be written and mailed, faxed or e-mailed or delivered to the following address or such other address as either of the parties shall specify:

IF TO THE COMMISSION:

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East  
Suite 700  
Charleston, West Virginia 25301  
Attention: Chancellor

IF TO THE REGISTRAR AND PAYING AGENT:

Bank One, N.A.  
Bank One Center  
Charleston, West Virginia 25301  
Attention: Corporate Trust Division

IF TO THE MUNICIPAL BOND COMMISSION

West Virginia Municipal Bond Commission  
812 Quarrier Street  
Charleston, West Virginia 25301  
Attention: Executive Director

IF TO THE UNDERWRITER:

Citigroup Global Markets Inc.  
390 Greenwich Street, 2<sup>nd</sup> Floor  
New York, New York 10013

Ferris, Baker Watts, Incorporated  
100 Laidley Tower  
500 Lee Street  
Charleston, WV 25301

Crews & Associates, Inc.

2001 Union National Plaza  
124 West Capitol  
Little Rock, Arkansas 72201

**IF TO THE RATING AGENCIES:**

Moody's Investors Service  
99 Church Street  
New York, New York 10007  
Attention: Public Finance Department

Standard & Poor's Rating Group  
25 Broadway  
New York, New York 10004  
Attention: Education Group

**IF TO THE BOND INSURER:**

MBIA Insurance Corporation  
113 King Street  
Armonk, New York 10504

12.2 This Bond Purchase Agreement will inure to the benefit of and be binding upon the parties hereto and their successors and will not confer any rights upon any other person. The term "successor" will not include any purchaser of any of the Bonds from the Underwriter merely because of such purchase. All representations, warranties and agreements in this Bond Purchase Agreement shall remain operative and in full force and effect, regardless of (a) delivery of and payment for the Bonds hereunder, and (b) any termination of this Bond Purchase Agreement including, but not limited to, the indemnity agreements contained in Section 11 and the continuing disclosure agreement contained in Section 6.1.

12.3 This Bond Purchase Agreement may not be assigned by any of the parties hereto.

12.4 If any provision of this Bond Purchase Agreement is held or deemed to be or is, in fact, inoperative, invalid or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provision of any constitution, statute, rule of public policy, or any other reason, such circumstances will not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions of this Bond Purchase Agreement invalid, inoperative or unenforceable to any extent whatever.

12.5 The payment for, acceptance of, and delivery and execution of any receipt for the Bonds and any other instruments upon or in connection with the closing by the Underwriter will be valid and sufficient for all purposes and binding upon the Underwriter. No such action by the Underwriter will impose any obligation or liability upon the Underwriter, other than as may arise as

expressly set forth in this Bond Purchase Agreement.

12.6 Whenever any action contemplated by this Bond Purchase Agreement requires the consent or approval of the Underwriter, it is acknowledged that the Underwriter may not unreasonably withhold such approval.

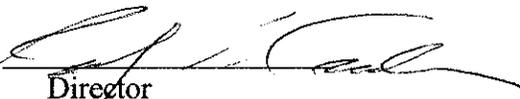
12.7 This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia applicable to agreements to be performed wholly therein. The parties hereto intend to be legally bound hereby.

12.8 This Bond Purchase Agreement may be executed in several counterparts, each of which will be regarded as an original and all of which will constitute one and the same document.

12.9 No personal recourse shall be had for any claim based on this Bond Purchase Agreement or the Bonds against any member, officer, agent or employee, past, present or future, of the Commission or any successor body or entity as such, either directly or through the Commission or any such successor body or entity, under any constitutional provision, statute, or rule of law or by the enforcement of an assessment or penalty or otherwise.



CITIGROUP GLOBAL MARKETS INC., acting on behalf  
of itself, Ferris, Baker Watts, Incorporated and  
Crews & Associates, Inc.

By:   
Director

Accepted as of the date first above written:

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: \_\_\_\_\_

Its: \_\_\_\_\_



CITIGROUP GLOBAL MARKETS INC., acting on behalf  
of itself, Ferris, Baker Watts, Incorporated and  
Crews & Associates, Inc.

By: \_\_\_\_\_  
Director

Accepted as of the date first above written:

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

By: J. Thomas Jones

Its: Chairman



EXHIBIT A

\$22,160,000  
 STATE OF WEST VIRGINIA  
 HIGHER EDUCATION POLICY COMMISSION  
 Revenue Refunding Bonds  
 (College Facilities)  
 2003 Series A

Dated Date: August 1, 2003

Closing Date: August 13, 2003

Maturities, Interest Rates and Prices

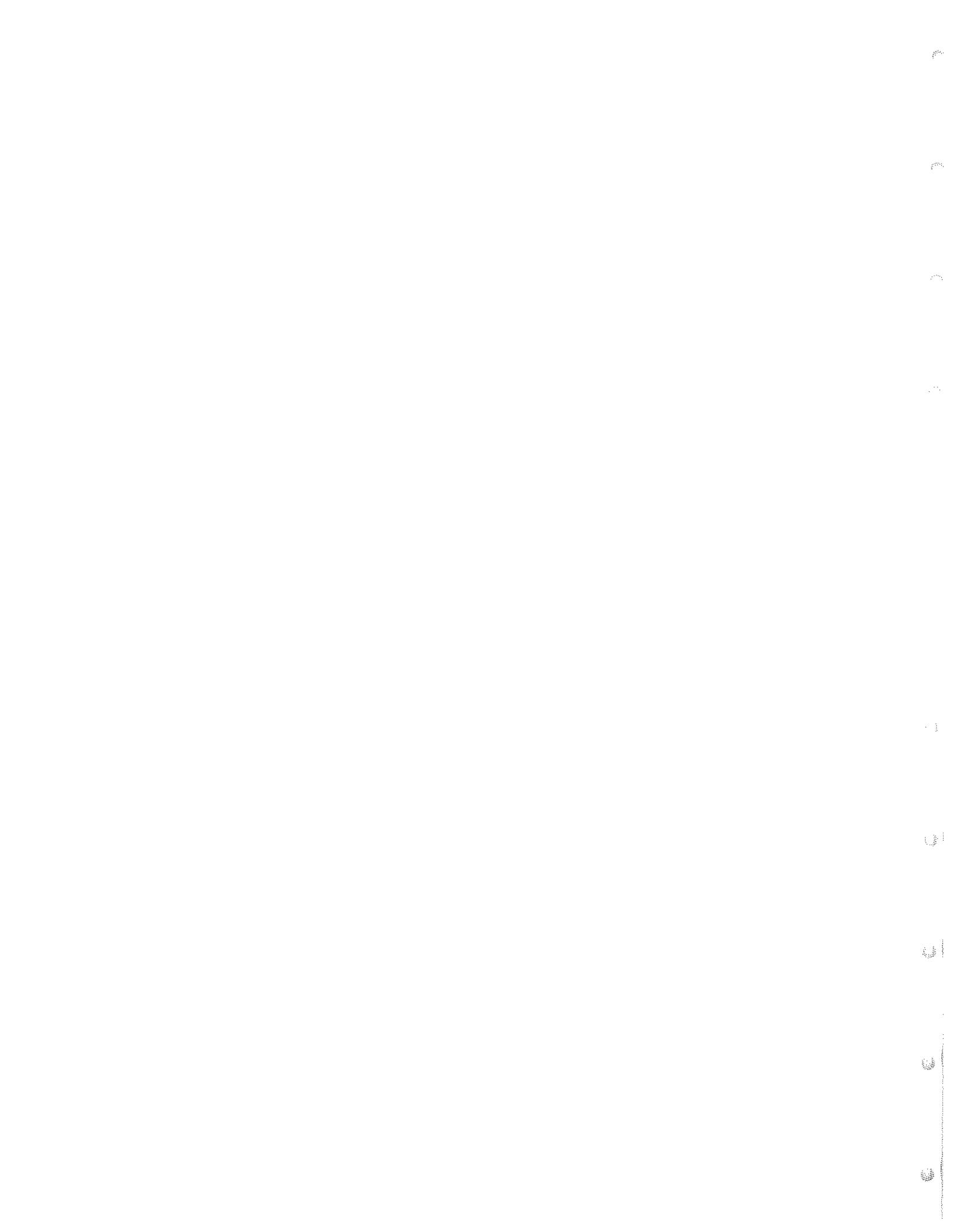
Maturity	Principal	Coupon	Yield	Price
04/01/2004	3,635,000	2.000 %	1.030 %	100.610
04/01/2005	2,325,000	3.000	1.480	102.442
04/01/2006	2,365,000	3.000	2.020	102.499
04/01/2007	2,395,000	2.375	2.490	99.601
04/01/2008	2,415,000	5.000	2.850	109.266
04/01/2009	2,505,000	5.000	3.230	109.046
04/01/2010	2,595,000	5.000	3.560	108.437
04/01/2011	2,690,000	3.750	3.830	99.471
04/01/2012	1,235,000	4.000	4.020	99.851

Redemption Provisions

**The Bonds are not subject to optional redemption prior to maturity**

Purchase Price:

Par Amount	\$22,160,000.00
Net: Original Issue Premium	781,741.40
Less: Underwriter's Discount	<u>(78,587.20)</u>
Net Bond Proceeds	\$22,863,154.20
Plus: Accrued Interest	<u>26,543.54</u>
Net Purchase Price	<u><u>\$22,889,697.74</u></u>



**Book-Entry Only**

*In the opinion of Spilman Thomas & Battle, PLLC, Bond Counsel, under existing law, assuming continuing compliance with certain covenants and the accuracy of certain representations, interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although such interest is included in adjusted current earnings when calculating corporate alternative taxable income. Under the laws of the State of West Virginia, the Bonds Their transfer and the income therefrom, are also exempt from all taxation by the State of West Virginia and any county, municipality, political subdivision or agency thereof. (See "TAX MATTERS" herein.)*

**\$21,330,000\***

**STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
Revenue Refunding Bonds  
(State College Facilities)  
2003 Series A**

**Dated: August 1, 2003**

**Due: April 1, as shown on inside cover**

Except as otherwise provided herein, the 2003 Bonds will be issued as fully registered bonds in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the 2003 Bonds. Purchases of the 2003 Bonds will be made only in book-entry form through DTC Participants in the principal amount of \$5,000 and integral multiples thereof, and no physical delivery of the 2003 Bonds will be made to purchasers. Unless otherwise indicated herein, payments of the principal, interest and premium, if any, will be made to purchasers by DTC through its participants (see "THE 2003 BONDS-Book-Entry Only System"). Interest on the 2003 Bonds will be payable on each October 1 and April 1, commencing October 1, 2003.

**The 2003 Bonds are not subject to optional redemption prior to maturity.**

The 2003 Bonds shall be on parity as to lien and source of payment with the Commission's College System Revenue Bonds (College Improvement Projects), 1997 Series A (the "1997 Bonds").

The 2003 Bonds are special, limited obligations of the Commission. Under the Act and the State Refunding Bond Act, the 2003 Bonds are revenue bonds of the Commission payable only from Revenues pledged therefor. The 2003 Bonds shall not be deemed to be obligations or debts of the State or the Commission within the meaning of any constitutional or statutory provision or limitation, and the credit or taxing power of the State shall not be deemed pledged therefor, but the 2003 Bonds shall be payable solely from the Revenues of the Commission. The Commission has no taxing power.

The payment, when due (other than by reason of acceleration), of principal of and interest on the 2003 Bonds will be insured as described herein by MBIA Insurance Corporation.



*The 2003 Bonds are offered when, as and if issued, and subject to the approving opinion of Spilman Thomas & Battle, PLLC, Charleston, West Virginia, Bond Counsel. Certain legal matters will be passed upon by Goodwin & Goodwin, LLP, counsel to the Underwriters, by Bruce R. Walker, Esquire, Charleston, West Virginia, counsel to the Commission, and by Kutak Rock LLP, Irvine, California, counsel to the Bond Insurer. It is expected that the 2003 Bonds will be available for delivery to The Depository Trust Company in New York, New York, on or about August 13, 2003.*

**CITIGROUP**

**Crews & Associates, Inc.**

**Ferris, Baker Watts, Incorporated**

August \_\_, 2003

\*Preliminary, subject to change.

Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy nor shall there be any registration or qualification under the securities laws of any such jurisdiction.

**\$21,330,000\***  
**STATE OF WEST VIRGINIA**  
**HIGHER EDUCATION POLICY COMMISSION**  
**Revenue Refunding Bonds**  
**(State College Facilities)**  
**2003 Series A**

**MATURITIES, AMOUNTS, INTEREST RATES AND PRICES OR YIELDS\***

<b><u>Year</u></b> <b><u>(April 1)</u></b>	<b><u>Principal Amount</u></b>	<b><u>Interest Rate</u></b>	<b><u>Price or Yield</u></b>	<b><u>CUSIP No.</u></b>
2004	\$3,615,000			
2005	2,165,000			
2006	2,200,000			
2007	2,270,000			
2008	2,345,000			
2009	2,430,000			
2010	2,515,000			
2011	2,605,000			
2012	1,185,000			

(accrued interest to be added)

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\*Preliminary, subject to change.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL WHICH MIGHT NOT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THE BONDS HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR HAS THE HEREINAFTER DEFINED INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE SECURITIES LAWS OF THE STATE, IF ANY, IN WHICH THE BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN CERTAIN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF THEIR AGENCIES HAVE PASSED UPON THE MERITS OF THE BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE HIGHER EDUCATION POLICY COMMISSION AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY COMMISSION. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THE INFORMATION CONTAINED HEREIN UNDER THE HEADING "THE COMMISSION" HAS BEEN FURNISHED BY THE COMMISSION. ALL OTHER INFORMATION CONTAINED HEREIN HAS BEEN OBTAINED FROM SOURCES OTHER THAN THE COMMISSION THAT ARE BELIEVED TO BE RELIABLE. SUCH OTHER INFORMATION IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS BY, AND IS NOT TO BE RELIED UPON AS OR CONSTRUED AS A PROMISE OR REPRESENTATION BY, THE COMMISSION OR THE UNDERWRITERS. NO REPRESENTATION, WARRANTY OR GUARANTY IS MADE BY THE UNDERWRITERS AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION IN THIS OFFICIAL STATEMENT, AND NOTHING CONTAINED IN THIS OFFICIAL STATEMENT IS OR SHALL BE RELIED UPON AS A PROMISE OR REPRESENTATION BY THE UNDERWRITERS.

This Official Statement does not constitute an offer to sell the Bonds in any jurisdiction to any person to whom it is unlawful to make such offer in such jurisdiction. No dealer, salesman or other person has been authorized to give any information or to make any representation other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by the Commission or any other person. Neither the delivery of this Official Statement nor the sale of any Bonds implies that there has been no change in the matters described herein since the date hereof.

## ADDRESSES FOR PRINCIPAL PARTIES

**Commission:**

Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, WV 25301  
Telephone: (304) 558-0281  
Facsimile: (304) 558-0259

**Trustee, Paying Agent  
And Registrar:**

Bank One Investment Management Group  
Global Corporate Trust Services  
707 Virginia Street  
2<sup>nd</sup> Floor  
Charleston, WV 25301  
Telephone: (304) 348-4463  
Fax: (304) 348-7978

**Bond Insurer:**

MBIA Insurance Corporation  
113 King Street  
Armonk, NY 10504  
Telephone: (914) 765-3468  
Fax: (914) 765-3163

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## SUMMARY

The following summary is furnished to provide limited introductory information about the Bonds and is qualified by reference to the more detailed descriptions appearing in this Official Statement. Capitalized terms are used as defined in this Official Statement. The offering of the Bonds is made only by means of the entire Official Statement, and no person is authorized to make offers to sell or to solicit offers to buy the Bonds unless the entire Official Statement is delivered.

<i>The Issuer</i>	West Virginia Higher Education Policy Commission
<i>The Bonds</i>	\$21,330,000* Revenue Refunding Bonds (State College Facilities), 2003 Series A (the "2003 Bonds," or, the "Bonds").
<i>Ratings</i>	Moody's Investors Service: Standard & Poor's Corporation:
<i>Plan of Finance</i>	The Bonds are being issued to (i) currently refund all Outstanding 1992 Bonds, and (ii) pay the costs associated with the issuance of the Bonds. The 1992 Bonds are sometimes hereinafter referred to as the "Refunded Bonds."
<i>Security and Source of Payment</i>	The Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on parity as to such lien and source of payment with the 1997 Bonds.
<i>Credit Enhancement</i>	The Commission will secure the payment, when due (other than by reason of acceleration or optional redemption, if any), of principal of and interest on the Bonds by a financial guaranty insurance policy issued by MBIA Insurance Corporation (the "Insurer").
<i>Additional Bonds</i>	Under the terms of the Resolution, the Commission may issue Additional Bonds on parity as to lien and source of payment with 2003 Bonds and the 1997 Bonds, assuming certain conditions are met. See APPENDIX E - "SUMMARY OF CERTAIN PROVISIONS OF PRINCIPAL DOCUMENTS." The Commission may also issue other obligations subordinate as to lien and source of payment with the Bonds.

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\*Preliminary, subject to change.

***Rate Covenant***

The Commission has covenanted to fix and collect Revenues in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period.

***Redemption of Bonds:***

The 2003 Bonds are not subject to optional redemption prior to maturity

***Tax Exemption***

In the opinion of Bond Counsel, under existing law, assuming continuing compliance with certain covenants and the accuracy of certain representations, interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. Bond Counsel is further of the opinion that the Bonds, together with interest thereon and income therefrom, are also exempt from all West Virginia state, county and municipal taxes, including income, inheritance and property taxes. See "TAX MATTERS" herein regarding certain other tax considerations.

## OFFICIAL STATEMENT

Relating to

\$21,330,000\*

**STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
Revenue Refunding Bonds  
(State College Facilities)  
2003 Series A**

### INTRODUCTION

This Official Statement of the West Virginia Higher Education Policy Commission (the "Commission"), successor to the Board of Directors of the State College System (the "Board of Directors") and the University of West Virginia Board of Trustees (the "Board of Trustees"), including the cover page and appendices, is provided for the purpose of setting forth information concerning (i) the General Resolution of the Board of Directors adopted September 9, 1992 (the "General Resolution") authorizing the issuance of the State College System Revenue Refunding Bonds, Series 1992 (the "1992 Bonds") and the First Supplemental Resolution (the "First Supplemental Resolution") of the Board of Directors, adopted September 9, 1992 authorizing the issuance of the 1992 Bonds, (ii) the Second Supplemental Resolution (the "Second Supplemental Resolution") of the Board of Directors, adopted January 15, 1993, amending certain provisions of the First Supplemental Resolution, (iii) the Third Supplemental Resolution (the "Third Supplemental Resolution") of the Board of Directors, adopted October 21, 1997, pursuant to which the Board of Trustees issued its College System Revenue Bonds (College Improvement Projects), 1997 Series A (the "1997 Bonds"), (iv) the Fourth Supplemental Resolution (the "Fourth Supplemental Resolution") of the Commission, adopted March 17, 2003, pursuant to which the Commission authorized the issuance of not to exceed \$40,000,000 of its Revenue Refunding Bonds (State College Facilities) (which are the "Bonds" described herein) (v) the Fifth Supplemental Resolution (the "Fifth Supplemental Resolution," ) adopted April 24, 2003, amending certain provisions of the General Resolution, (vi) the Sixth Supplemental Resolution (the "Sixth Supplemental Resolution," and, together with the General Resolution and all other Supplemental Resolutions, hereinafter referred to collectively as the "Resolution") of the Commission, adopted June 5, 2003, amending certain provisions of the General Resolution, and (vii) a Bond Indenture (the "Bond Indenture"), dated as of August 1, 2003, by and between the Commission and Bank One, N.A., as Trustee (the "Trustee"), setting forth the terms and provisions relating to the Bonds.

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\*Preliminary, subject to change.

The Bonds are issued pursuant to the Act and the Refunding Act and other applicable provisions of law. The Bonds are issued and secured under the Resolution to provide moneys which, together with other moneys available to the Commission, will be applied (i) to currently refund and defease all Outstanding 1992 Bonds, and (ii) to provide for the payment of the costs of issuing the Bonds.

The Board of Directors of the State College System (the "Board of Directors") and the University of West Virginia Board of Trustees (the "Board of Trustees") were previously created as the successors to the powers, duties and authorities of the West Virginia Board of Regents as such related to higher education, and each valid agreement and obligation of the West Virginia Board of Regents related to higher education for the state college system became the agreements and obligations of the Board of Directors. The Board of Directors was responsible for the general determination, control, supervision and management of the financial, business and educational policies and affairs of the state college system (the "State College System") and the Board of Trustees was responsible for the general determination, control, supervision and management of the financial, business and educational policies and affairs of the state university system.

On March 19, 2000, the West Virginia Legislature enacted Senate Bill No. 653 ("S.B. 653"), which restructured higher education in West Virginia. S.B. 653 was effective ninety days from passage (June 18, 2000). S.B. 653 abolished the Board of Directors, effective June 30, 2000, and replaced it with a transition-year board, the West Virginia Higher Education Interim Governing Board (the "Interim Governing Board"). The Interim Governing Board was granted all powers, duties and authorities of the Board of Directors and there was transferred to the Interim Governing Board each valid agreement and obligation previously transferred or invested in the Board of Directors and the Board of Trustees. S.B. 653 also created the West Virginia Higher Education Policy Commission (the "Commission"), which is responsible for developing, gaining consensus around and overseeing the implementation of a higher education public policy agenda. The Commission is responsible for the development of public policy for higher education and other duties as specifically set forth in the legislation, including preparation of the statewide budgets for higher education. Effective July 1, 2001, certain powers transferred to the Interim Governing Board were transferred to the newly created governing boards of each of the institutions of higher education (the "Governing Boards"). Each Governing Board has the duty to manage the financial, business and education policies and affairs of a given College under specific functions and responsibilities to meet its higher education needs, the duty to prepare and submit the respective College's budget request, the duty to review at least every five years all academic programs offered at the institution, and the power to fix tuition and other fees for the different classes or categories of students enrolled at a given College, subject to approval and limited oversight by the Commission.

Pursuant to the Act, each Governing Board is empowered to fix and collect regular student fees, including registration and tuition fees, from students at the State Public Institutions of Higher Education, which formerly constituted the State College System. All registration and tuition fees collected under the Act from students at such State Institutions of Higher Education are required to be paid directly into separate funds in the State Treasury (the "State System Registration Fee Special

Capital Improvements Fund" and the "State System Tuition Fee Special Capital Improvements Fund," sometimes referred to herein as the "State System Funds") and are pledged to the payment of the Bonds, all as more particularly provided for in the General Resolution and further described hereinafter. Notwithstanding the foregoing, tuition fees collected at Southern West Virginia Community College, Eastern West Virginia Community and Technical College and West Virginia Northern Community College are not required to be deposited in the State System Funds. The Commission has covenanted in the General Resolution that no other bonds or other obligations superior to or on parity with the lien of the Bonds other than with respect to a Series of Additional Bonds shall be issued and secured by the pledge of Revenues paid into the State System Funds.

Bond Insurance. The Commission will secure the payment, when due (other than by reason of acceleration or optional redemption, if any), of principal of and interest on the Bonds by a financial guaranty insurance policy issued by MBIA Insurance Corporation (the "Insurer").

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## ESTIMATED SOURCES AND USES OF FUNDS

The following table sets forth the estimated sources and uses of funds, exclusive of accrued interest:

### Sources

Principal amount of the Bonds

Total

### Uses

Deposit to effect defeasance of the Refunded Bonds

Costs of Issuance (1)

Total

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(1) Provision for legal, financing and consulting fees, printing costs, premium for bond insurance, underwriters' discount and other miscellaneous expenses relating to the issuance of the Bonds.

## PLAN OF REFUNDING

A portion of the proceeds of the Bonds will be applied to currently refund the 1992 Bonds through the acquisition of direct obligations of the United States or obligations the principal and interest of which are guaranteed by the United States, the principal of and interest on which when due will provide moneys sufficient to pay on \_\_\_\_\_ 1, 2003, the redemption price of the 1992 Bonds, being 102% of par plus accrued interest to the date fixed for redemption. Such obligations will be deposited with Bank One, N.A., (successor-in-interest to Charleston National Bank), Charleston, West Virginia, as Escrow Trustee (the "Escrow Trustee") in trust for the payment of the redemption price of the 1992 Bonds pursuant to the terms of an Escrow Agreement dated \_\_\_\_\_, 2003 among the Commission, the West Virginia Municipal Bond Commission and the Escrow Trustee (the "Escrow Agreement"). Upon the deposit of such obligations in trust, the 1992 Bonds under the terms of the General Resolution will be deemed paid and the covenants, agreements and other obligations of the Commission to the 1992 Bondholders under the General Resolution shall be discharged and satisfied. See "VERIFICATION OF MATHEMATICAL COMPUTATIONS".

## THE BONDS

### General

The Bonds are issuable only as fully registered bonds without coupons and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository of the Bonds, and all payments due with respect to the Bonds will be made to DTC or its nominee. Individual purchases will be made only in book-entry form. See "Book-Entry Only System."

The Bonds will be dated August 1, 2003 and will bear interest from such date. Ownership interests in the Bonds will be in denominations of \$5,000 or any integral multiple thereof. Interest with respect to the Bonds will be computed using a year of 360 days comprised of twelve 30-day months and is payable on October 1 and April 1 of each year, commencing October 1, 2003. The Bonds will mature on the dates and in the principal amounts, and bear interest at the rates, all as set forth on the inside cover page of this Official Statement.

### Book-Entry Bonds

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee). One fully registered Bond certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount thereof as set forth on the inside cover page hereof.

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds securities that its participants ("Participants") deposit with DTC. DTC also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc., and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks, and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The Rules applicable to DTC and its Participants are on file with the Securities and Exchange Commission.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership of each Bond by each actual purchaser ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accompanied by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of Bonds with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to Cede & Co. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to Bonds. Under its usual procedures, DTC mails an Omnibus Proxy to the Commission as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credits on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Bonds will be made to DTC. DTC's practice is to credit Direct Participants' accounts on payable date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on payable date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Commission, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the Commission or the Trustee, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the Commission or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Bonds will be printed and delivered.

The Commission may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bonds will be printed and delivered.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Commission believes to be reliable, but the Commission takes no responsibility for the accuracy thereof.

**Neither the Commission, the Underwriters nor the Trustee will have any responsibility or obligation to Participants, to Indirect Participants or to any Beneficial Owner with respect to (i) the accuracy of any records maintained by DTC, any Participant, or any Indirect Participant; (ii) the payment by DTC or any Participant or Indirect Participant of any amount with respect to the principal of, or premium, if any, or interest on, the Bonds; (iii) any notice which is permitted or required to be given by DTC to Bondholders; (iv) any consent given by DTC or other action taken by DTC as Bondholder, or (v) the selection by DTC or any Participant or Indirect Participant of any Beneficial Owners to receive payment in the event of a partial redemption of the Bonds.**

## **Redemption**

### **Optional Redemption**

**The 2003 Bonds are not subject to optional redemption prior to maturity.**

## **SECURITY FOR THE BONDS**

### **Pledge of Revenues**

The principal of, premium, if any, and interest on the Bonds are payable solely from and secured by a first lien upon and pledge of all College System Revenues, on parity with the 1997 Bonds, all of which are required by the General Resolution to be deposited in the State System Funds and the Debt Service on the 2003 Bonds is transferred semiannually to the Trustee and are pledged for the payment of the Bonds. "Revenues" is defined in the General Resolution to include Registration and Tuition Fees and any earnings attributable to the investment of monies, including proceeds of Bonds held in the various funds and accounts created under the General Resolution and permitted, in accordance with the General Resolution, to be credited to any such fund.

Under the Act and the State Refunding Bond Act, the Bonds are revenue bonds of the State payable only from Revenues pledged therefor. The Bonds shall not be deemed to be obligations or debts of the State within the meaning of any constitutional or statutory provision or limitation, and the credit or taxing power of the State shall not be deemed pledged therefor, but the 2003 Bonds shall be payable solely from the Revenues.

### **Flow of Funds**

Under the Act there have been created capital improvement funds in the State Treasury for each West Virginia Institution of Higher Education (each an "Institution"). Under the General Resolution, the Commission has created and established certain funds including a Bond Fund for each Series of Bonds to be held by the Municipal Bond Commission or a corporate trustee. All Revenues, including registration and tuition fees, shall be deposited in the respective capital improvement funds. Pursuant to the Sixth Supplemental Resolution and a Memorandum of Understanding (the "MOU") between the Commission and the Treasurer of the State of West Virginia, the Treasurer has agreed to prohibit any withdrawals from the capital improvement fund held by the Treasurer on behalf of each Institution on and after each September 1 and February 1, beginning September 1, 2003, until the balance of such fund is equal to one-half of the debt service on the Bonds for the twelve-month period beginning on September 1 of each year allocable to such Institution and the MOU provides further that the Treasurer will only release funds for each Institution's use in excess of the amount necessary for such Institution's allocable portion of debt service. The Commission shall, on or prior to September 1 of each year, furnish to the Treasurer the allocable amount payable by each Institution. See, "APPENDIX E- SUMMARY OF CERTAIN PROVISIONS OF THE GENERAL RESOLUTION."

## **Rate Covenant**

The Commission has covenanted to fix and collect registration and tuition fees at Colleges at the rates now or hereafter provided in or authorized by the Act to the full extent necessary so as to provide registration and tuition fees constituting Revenues in each Fiscal Year in which Bonds are Outstanding in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period.

## **Additional Bonds**

The Commission has covenanted, other than with respect to a Series of Additional Bonds, not to issue any other obligations payable from the Revenues having priority to or being on a parity with the lien of the Bonds issued from time to time pursuant to the General Resolution.

Such Additional Bonds may be issued in one or more Series under the General Resolution only upon certification by an Authorized Representative that (i) all payments into the respective funds and accounts provided for in such General Resolution and any Related Supplemental Resolution respecting Bonds theretofore issued and then Outstanding shall have been made in full to the date of issuance and delivery of such Additional Bonds and no Event of Default thereunder shall then be existing; and (ii) Revenues collected by the Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds shall have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); or (iii) (a) all Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds, plus Projected Revenues (as defined below) shall have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); and (b) Projected Revenues shall not have been greater than 20% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or which were not pledged under this Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of such Additional Bonds.

## **BOND INSURANCE**

The following information has been furnished by MBIA Insurance Corporation ("MBIA" or the "Insurer") for use in this Official Statement. Reference is made to Appendix D for a specimen of MBIA's policy.

### **The MBIA Insurance Corporation Insurance Policy**

MBIA's policy unconditionally and irrevocably guarantees the full and complete payment required to be made by or on behalf of the Issuer to the Paying Agent or its successor of an amount equal to (i) the principal of (either at the stated maturity or by an advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Bonds as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed by MBIA's policy shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner of the Bonds pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law (a "Preference").

MBIA's policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Bond. MBIA's policy does not, under any circumstance, insure against loss relating to: (i) optional or mandatory redemptions (other than mandatory sinking fund redemptions); (ii) any payments to be made on an accelerated basis; (iii) payments of the purchase price of Bonds upon tender by an owner thereof; or (iv) any Preference relating to (i) through (iii) above. MBIA's policy also does not insure against nonpayment of principal of or interest on the Bonds resulting from the insolvency, negligence or any other act or omission of the Paying Agent or any other paying agent for the Bonds.

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by MBIA from the Paying Agent or any owner of a Bond the payment of an insured amount for which is then due, that such required payment has not been made, MBIA on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such insured amounts which are then due. Upon presentment and surrender of such Bonds or presentment of such other proof of ownership of the Bonds, together with any appropriate instruments of assignment to evidence the assignment of the insured amounts due on the Bonds as are paid by MBIA, and appropriate instruments to effect the appointment of MBIA as agent for such owners of the Bonds in any legal proceeding related to payment of insured amounts on the Bonds, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners or the Paying

Agent payment of the insured amounts due on such Bonds, less any amount held by the Paying Agent for the payment of such insured amounts and legally available therefor.

## **MBIA**

MBIA Insurance Corporation ("MBIA") is the principal operating subsidiary of MBIA Inc., a New York Stock Exchange listed company (the "Company"). The Company is not obligated to pay the debts of or claims against MBIA. MBIA is domiciled in the State of New York and licensed to do business in and subject to regulation under the laws of all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States and the Territory of Guam. MBIA has three branches, one in the Republic of France, one in the Republic of Singapore and one in the Kingdom of Spain. New York has laws prescribing minimum capital requirements, limiting classes and concentrations of investments and requiring the approval of policy rates and forms. State laws also regulate the amount of both the aggregate and individual risks that may be insured, the payment of dividends by MBIA, changes in control and transactions among affiliates. Additionally, MBIA is required to maintain contingency reserves on its liabilities in certain amounts and for certain periods of time.

MBIA does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the policy and MBIA set forth under the heading "BOND INSURANCE". Additionally, MBIA makes no representation regarding the Bonds or the advisability of investing in the Bonds.

The Financial Guarantee Insurance Policies are not covered by the Property/Casualty Insurance Security Fund specified in Article 76 of the New York Insurance Law.

## **MBIA Information**

The following documents filed by the Company with the Securities and Exchange Commission (the "SEC") are incorporated herein by reference:

- (1) The Company's Annual Report on Form 10-K for the year ended December 31, 2002; and
- (2) The Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2003.

Any documents filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act of 1934, as amended, after the date of this Official Statement and prior to the termination of the offering of the Bonds offered hereby shall be deemed to be incorporated by reference in this Official Statement and to be a part hereof. Any statement contained in a document incorporated or deemed to be incorporated by reference herein, or contained in this Official Statement, shall be deemed to be modified or superseded for purposes of this Official Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or

supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of Official Statement.

The Company files annual, quarterly and special reports, information statements and other information with the SEC under File No. 1-9583. Copies of the SEC filings (including (1) the Company's Annual Report on Form 10-K for the year ended December 31, 2002, and (2) the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2003, are available (i) over the Internet at the SEC's web site at <http://www.sec.gov>; (ii) at the SEC's public reference room in Washington D.C.; (iii) over the Internet at the Company's web site at <http://www.mbia.com>; and (iv) at no cost, upon request to MBIA Insurance Corporation, 113 King Street, Armonk, New York 10504. The telephone number of MBIA is (914) 273-4545.

As of December 31, 2002, MBIA had admitted assets of \$9.2 billion (audited), total liabilities of \$6.0 billion (audited), and total capital and surplus of \$3.2 billion (audited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities. As of March 31, 2003 MBIA had admitted assets of \$9.3 billion (unaudited), total liabilities of \$6.1 billion (unaudited), and total capital and surplus of \$3.2 billion (unaudited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities.

#### **Financial Strength Ratings of MBIA**

Moody's Investors Service, Inc. rates the financial strength of MBIA "Aaa."

Standard & Poor's, a division of The McGraw-Hill Companies, Inc. rates the financial strength of MBIA "AAA."

Fitch Ratings rates the financial strength of MBIA "AAA."

Each rating of MBIA should be evaluated independently. The ratings reflect the respective rating agency's current assessment of the creditworthiness of MBIA and its ability to pay claims on its policies of insurance. Any further explanation as to the significance of the above ratings may be obtained only from the applicable rating agency.

The above ratings are not recommendations to buy, sell or hold the Bonds, and such ratings may be subject to revision or withdrawal at any time by the rating agencies. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of the Bonds. MBIA does not guaranty the market price of the Bonds nor does it guaranty that the ratings on the Bonds will not be revised or withdrawn.

## REGISTRATION, TUITION AND OTHER STUDENT FEES

Regular student fees at West Virginia public colleges and universities, although commonly referred to as "tuition," are actually comprised of six distinct components -- tuition fees, registration fees, higher education resource fees, faculty improvement fees, college fees and program specific fees. Of these components, only registration fees and tuition fees are a part of the Revenues and are pledged for the payment of debt service on the Bonds. Notwithstanding the foregoing, tuition fees collected at Southern West Virginia Community College, Eastern West Virginia Community and Technical College and West Virginia Northern Community College do not constitute Revenues and are therefore not pledged for the payment of Debt Service on the Bonds. Higher education resource fees, faculty improvement fees, college fees and program specific fees are not so pledged and are not included in Revenues. Funds generated by these fees are used in different ways and applied for various other purposes.

Appendix C of this Official Statement summarizes regular student fees for the academic year 2002-03.

### Registration and Tuition Fees

The registration fees and tuition fees are imposed and collected by each Board of Governors pursuant to the Act from students enrolled at all State Institutions of Higher Education. Full-time students enrolled at each State Institution of Higher Education are required by the Act to pay a registration fee and a tuition fee as indicated in Appendix C. For all part-time students and for all summer students, a prorated fee, calculated in direct proportion to the number of credit hours taken is imposed. For fee purposes a full-time undergraduate student is enrolled for 12 or more credit hours, and a full-time graduate student is enrolled for 9 or more credit hours. Each Board of Governors may increase the Registration Fee and Tuition Fee rates now or hereafter in effect pursuant to the Act, subject to the approval of the Commission.

The Commission has covenanted to diligently enforce and collect the registration fees and tuition fees in effect from all students enrolled for credit at any of the State Institutions of Higher Education. Each Board of Governors may, pursuant to the Act, waive fees for certain students or classes of students, or may establish preferential fee rates for certain students or classes of students, provided, however, that such waivers or preferential fee rates shall not cause the Revenues to be reduced below a level equal to 1.00 times the aggregate principal and interest due on the Bonds in the ensuing fiscal year.

The audited financial statements of the Registration and Tuition Fee Bond Funds for the Fiscal Year ended June 30, 2002 are set forth in Appendix B.

**HISTORICAL AND PROJECTED PLEDGED REVENUES AND  
DEBT SERVICE COVERAGE**

The following table, prepared by the Commission, shows historical Registration and Tuition Fee collections, investment income, disbursements and debt service coverage with respect to the Prior Bonds for the past three Fiscal Years and estimated Registration and Tuition Fee collections, investment income, disbursements and debt service coverage with respect to the Prior Bonds for the Fiscal Year 2003:

	Actual Pledged Revenues			Estimated
	2000	2001	2002	2003
<b>Institutions of the Former College System</b>				
Registration & Tuition Fee Collections	\$10,829,809	\$11,043,885	\$11,585,527	\$12,164,804
Interest Income:	\$833,328	\$1,418,618	\$1,008,823	\$1,018,911
<b>Total System - Pledged Revenues</b>	<b>\$11,663,137</b>	<b>\$12,462,503</b>	<b>\$12,594,350</b>	<b>\$13,183,715</b>
Annual System Debt Service	\$5,127,092	\$5,079,935	\$5,056,074	\$5,042,225
Coverage of Annual Debt Service by Total Revenues	2.27	2.45	2.49	2.61
Coverage of Annual Debt Service by Fee Collections	2.11	2.17	2.29	2.41

## THE COMMISSION

The Commission is responsible for developing, gaining consensus around and overseeing the implementation of a higher education public policy agenda. The Commission is responsible for the development of public policy for higher education and other duties as specifically set forth in the Act, including preparation of the statewide budgets for higher education. Additional powers and duties include, but are not limited to, the duty to develop a master plan for each institution, the power to approve Tuition, Registration and other fees of the institutions and the power to prescribe the specific functions and institution's budget request. The Commission has the authority to assess each State Institution of Higher Education for payment of debt service of the Bonds. The Commission is comprised of nine members, all of whom are entitled to vote. One is the Secretary of Education and the Arts, ex officio. One is the State Superintendent of Schools. The other seven members shall be citizens of the State, appointed by the Governor, with the advice and consent of the Senate. The terms of the members appointed by the Governor shall be for overlapping terms of four (4) years, except, of the original appointments, one shall be appointed for a term of one (1) year, two shall be appointed for a term of two (2) years, two shall be appointed for a term of three (3) years and two shall be appointed for a term of four (4) years. The Governor shall appoint a member to fill any vacancy among the seven members of the Commission appointed by the Governor, which member appointed to fill such vacancy shall serve for the unexpired term of the vacating member. The Governor shall fill the vacancy within thirty days of the occurrence of the vacancy. The current members of the Commission are as follows:

### Members

#### **J. Thomas Jones**

Chairman

J. Thomas Jones, of Morgantown, is Chief Executive Officer of West Virginia United Health System. Previously, he served as Chief Executive Officer of the Genesis Hospital System, Executive Director/Chief Executive Officer of St. Mary's Hospital, and served with Wheeling Hospital and West Virginia University Hospital. Mr. Jones is active in civic affairs, having chaired the Huntington Area Chamber of Commerce Board of Directors and the Huntington Area Development Council. He is Chair of the West Virginia Roundtable and sits on the Board of Directors of the West Virginia State Chamber of Commerce. He serves on numerous boards and commissions and served on the University System of West Virginia Board of Trustees. Mr. Jones holds a bachelor's degree from West Virginia University and a master's degree from the University of Minnesota.

#### **Mary Clare Eros, Esq.**

Vice Chairman

Mary Clare Eros, of Shepherdstown, has been a member of the law firm of Jackson Kelly PLLC since 1981. She serves as the Managing Member of the Martinsburg office where her practice areas include banking, corporate, bankruptcy, government contracts, bonds and

financing, leases, business and commercial, legislative services, contracts, real estate and property law, and intellectual property and trademarks. Ms. Eros previously served as a summer intern for the U.S. Department of Justice in Elkins, a faculty research assistant at West Virginia University Law Center and Georgetown University Law Center, and co-director of the International Language Institute at Davis & Elkins College. She holds a B.A. in English Literature from St. Louis University, attended West Virginia University law school and earned a J.D. from Georgetown University Law Center. She previously served on the Shepherd College Board of Advisors.

### **Richard Ken Hall**

Ken Hall, of Yawkey, is a twenty-six year member of the Teamsters Union, Local 175 in Charleston, where he has served as president of the 3500-member union since 1991. He also is employed by the Teamsters International Union as Director of the Union's Parcel and Small Package Division, with the responsibility of negotiating and administering the union's largest contract covering 220,000 UPS employees. In addition, he serves as an officer in the Kentucky-West Virginia State Conference of Teamsters, a trustee for the Teamsters health, welfare and pension funds in West Virginia, and a trustee for the Teamsters national 401K plan for employees.

### **Elliot G. Hicks, Esq.** Secretary

Elliot G. Hicks, of Charleston, is the resident partner in the Charleston, West Virginia office of the Atlanta, Georgia-based law firm Hawkins & Parnell, LLP. He has practiced law for more than twenty-one years in Charleston. Mr. Hicks concentrates his practice in litigation, with a particular emphasis on products liability, premises liability, corporate and commercial litigation, insurance defense and mediation and arbitration. He attended Washington and Lee University, and holds a B.A. and a J.D. from West Virginia University. He is very active in civic affairs, and served as President of the West Virginia State Bar from 1998 to 1999.

### **Kay H. Goodwin**

Kay Huffman Goodwin, of Ripley, serves as West Virginia Secretary of Education and the Arts. She is responsible for six government agencies in her role as Secretary. Previously, she served as chair of the University System of West Virginia Board of Trustees. She is a former member of the state Educational Broadcasting Authority, and former instructor at West Virginia University, West Virginia State College, and the Department of Defense Information School. Secretary Goodwin is a former member of the Board of Directors of West Virginia University Hospitals and the United Health System, and a member of the Board of Directors of the Clay Center for the Arts and Sciences. She earned a B.A. and an M.A. from West Virginia University.

**John R. Hoblitzell, Esq.**

John R. Hoblitzell, of Charleston, is a member of the law firm of Kay Casto & Chaney PLLC where he has engaged in the practice of law since 1973. He has been an active participant in governmental affairs in West Virginia since 1969 when he was appointed as the first student member of the West Virginia Board of Regents. Mr. Hoblitzell served as a member of the West Virginia House of Delegates from Kanawha County from 1985 to 1987. While a member of the House of Delegates, he served on the House Education Committee and held the position of minority chair in the House Judiciary Committee. He is a past president of the Executive Council of the West Virginia University Alumni Association and was a member of the University System of West Virginia Board of Trustees from 1989 to 2000. Mr. Hoblitzell chaired both the Finance and Academic Program committees of the Board of Trustees and also served a two-year term as chair of the Board of Trustees. He is a graduate of West Virginia University with a bachelor's degree in Economics and the West Virginia University College of Law.

**Terry R. Sammons, Esq.**

Terry R. Sammons, of Gilbert, is proprietor of the Sammons Law Offices PLLC. Prior to that, he formed several companies: Gilbert Coal Testing Inc., Appalachian States Analytical LLC, Appalachian Network Communications Inc., Corridor G Development Inc., Langdell Inc., Foxfire Consultants Inc., Foxfire Environmental Inc., and Southern Coal Field Mine Rescue. Additionally, Mr. Sammons served as an adjunct professor at Marshall University Graduate College and assistant professor at Southern West Virginia Community and Technical College. He earned a bachelor's degree in mathematics from Berea College, an M.S. in environmental science from West Virginia Graduate College and a J.D. from Harvard Law School. He holds a teaching certificate from Marshall University.

**David L. Stewart**

David Stewart, of Charleston, was named West Virginia Superintendent of Schools in March 2000. Prior to assuming the position, he served as assistant superintendent in charge of administrative services and worked as an assistant division chief at the department of education. Dr. Stewart began his career as an elementary teacher and later worked as an elementary school principal. He served in both West Virginia and Delaware in the areas of purchasing, finance, business, accounting, and as treasurer. Additionally, he served as superintendent and assistant superintendent of a county school system. Dr. Stewart holds a bachelor's degree from Anderson College, and a master's and doctorate from West Virginia University.

**Shawn R. Williams**

Shawn R. Williams, of Clarksburg, serves on the West Virginia Faculty Merit Foundation Board of Directors, and the boards of the Harrison County YMCA, the Clarksburg-Harrison County Friends of the Library, and The Waldomore Association. She served on the West Virginia Ethics Commission and the West Virginia Educational Broadcasting Authority Board of Directors. Ms. Williams was an initial member of the State College System of West Virginia

Board of Directors and served as vice chair and secretary. She attended the College of the Holy Cross and holds a bachelor's degree from the College of William and Mary.

### **Administration**

In order to assist the Commission with carrying out its directives, duties and responsibilities, a system Chancellor is employed by the Commission. The Chancellor works with the Commission to evaluate policy options and develop policy. The Chancellor serves as the chief executive officer.

The offices of the Chancellor and other Commission staff are located in Charleston, West Virginia.

Following are the biographies of the administrative staff of the Commission:

#### **J. Michael Mullen, Chancellor of Higher Education for West Virginia**

J. Michael Mullen was appointed chancellor of higher education for West Virginia in February 2001. Prior to his appointment, Mullen served as vice president for administration at Northern Arizona University for two years. Previously, he served on the staff of the Council of Higher Education for Virginia for 24 years in the positions of associate/assistant director, deputy director and interim director. He also served as division chairman; director of institutional research; and associate professor of business at Northern Virginia Community College. He was an instructor of economics at Shepherd College for one year. Mullen holds a B.S. in psychology from George Washington University, an M.B.A. from West Virginia University, and a Ph.D. in higher education from the University of Virginia.

#### **Thomas E. Blevins, Special Assistant to the Chancellor for Technology**

A native West Virginian, Thomas E. Blevins holds a B.S. degree in secondary education from Bluefield State College, an M.A. degree in English from Marshall University, a certificate of advanced graduate studies and a doctor of education degree in instructional technology and community college education from Virginia Tech University. He serves the higher education office as special assistant to the chancellor for technology, and is chief technology officer, and professor of education and English at Bluefield State College. Dr. Blevins has served at Bluefield State College in various positions since 1977. He has had six years of experience as a public school teacher and administrator with the McDowell County Public Schools, and holds a permanent West Virginia teaching certificate.

#### **Daniel E. Crockett, Director of Student and Educational Services**

Daniel E. Crockett was appointed director of student and educational services in 2000. Prior to that, he served as assistant director of student and educational services for nine years, assistant director for educational support with the talent identification program at Duke University for one year, coordinator of outreach services for the West Virginia Board of Regents

for sixteen years, educational development specialist for Appalachia Educational Laboratory, Inc. for one year, and talent search counselor for the Board of Regents for two years. Mr. Crockett earned a Bachelor of Arts degree at Marshall University and a Master of Arts degree from the West Virginia College of Graduate Studies.

**Bruce C. Flack**, Director of Academic Affairs/Interim Vice-Chancellor for State Colleges

Bruce C. Flack has served as director of academic affairs for higher education since 1989. He previously served as vice president for academic affairs at Glenville State College and as director of continuing education at the Satellite Network of West Virginia. Dr. Flack was professor of history at Glenville State College for nineteen years. He holds the A.B. degree from Otterbein College, with majors in French and English, and the M.A. and Ph.D. degrees in history from the Ohio State University. He has completed postdoctoral studies at the University of Minnesota. Dr. Flack also served as interim president of Glenville State College for the 1998-99 academic year.

**James A. Winter**, Director of Finance and Facilities

James A. Winter was appointed director of finance and facilities in May 2001. For twenty-five years, he was employed in the banking industry by One Valley Bancorp and One Valley Bank, N.A. in the roles of senior vice president, chief financial officer, controller, and credit officer. He earned a bachelor's degree in accounting from West Virginia University and a masters in business administration from the West Virginia College of Graduate Studies. He is a Certified Public Accountant and a member of the AICPA.

**James L. Skidmore**, Vice Chancellor for Community and Technical College Education

James L. Skidmore has served as vice chancellor for community and technical college education since August 1998. He was the interim vice chancellor for the three years previous to that appointment. A West Virginia native, Mr. Skidmore has served in higher education in West Virginia for more than fifteen years at the higher education office and campus levels. He has held positions as an education awareness counselor for the West Virginia Board of Regents, director of Upward Bound at West Virginia Institute of Technology, and assistant director of admissions at West Virginia State College. He holds degrees from Glenville State College and the West Virginia College of Graduate Studies.

**Bruce Ray Walker**, General Counsel

Bruce Ray Walker has served as general counsel for higher education since 1991. Prior to that time he spent eight years with the West Virginia Attorney General's Office as an assistant and later deputy attorney general. He received a B.A. degree from Michigan State University and a J.D. from Washington and Lee University College of Law. As general counsel, Mr. Walker is responsible for legal advice to the higher education governing boards, the higher education office and to the public institutions of higher education.

## **CAPITAL BUDGETING AND PLANNING**

West Virginia funds the capital needs of its colleges and universities almost entirely through the use of student fees, namely tuition and registration fees, rather than with general tax appropriations. Funding through this means has contributed to meeting facility needs that might not otherwise have been possible when relying solely on State funds.

Among the duties of the newly authorized Commission is the development of a budget for the State system of higher education. The budget request shall include the institutional operating budgets for all State institutions of higher education. In addition to the institutional operating budget and incentive funding, the Commission is responsible for allocating the funds appropriated to it among the institutions based on institutional progress and other standards.

## **STATE APPROPRIATIONS FOR HIGHER EDUCATION**

The State has a policy of utilizing its general fund revenues to meet the major portion of the educational and general operating expenses of its State institutions of higher education. For the combined West Virginia Public Higher Education System in the fiscal year ended June 30, 2002, state appropriations of \$431.6 million represented almost 42% of total revenues of \$1,052 million with the balance coming from grants and contracts (21%) student fees (19%), auxiliary revenues (10%) and other income (8%).

## **STUDENT ENROLLMENT**

Data reported herein relate to recent enrollment at Commission institutions. Enrollment data are generally collected and reported in two categories -- head-count and full-time equivalent (FTE). Whereas head-count enrollment is an indicator of the total number of individual students attending at a given time, FTE enrollment converts each individual student's credit hour load into a standard measure of effort, depending upon the student's enrollment category. For example, an undergraduate student enrolling for fifteen credit hours in a given semester would be counted as one head-count and one FTE student. An undergraduate student taking three credit hours as a part-time student would be counted as one head-count student, but only as .20 FTE because he/she is taking only one-fifth of what might be considered as the normal undergraduate load. Although each of these indicators is useful in terms of describing enrollment, FTE enrollment would normally be the more relevant measure in analyzing historic and projected fee revenues since it more closely approximates the relationship between students and charges assessed to them.

As is the case in other states, student enrollment in West Virginia is influenced by a number of factors, not all of which are readily controllable or entirely possible to predict. Economic and demographic considerations such as birth rate, number of high school graduates, migration patterns, education attainment level of parents and/or other family members, and college-going rate for both traditional and non-traditional students residing in the State often influence college attendance. Other factors such as student retention rates, student fee levels,

and the amount and configuration of student financial assistance appear to influence enrollment levels.

The percentage of West Virginia's high school graduates who enroll in college within a year of graduation from high school has steadily increased over the past five years. This increasing percentage has moderated the effects of several years of smaller high school graduating classes. The potential exists for further growth in the rate of college participation by West Virginians before the market is saturated. In addition to the possibility of increasing the college-going rate of recent high school graduates, substantial numbers of non-traditional students are returning to higher education for additional degrees or professional certifications. This trend is expected to continue. West Virginia institutions also continue to attract students from surrounding states, which are projecting increasing numbers of high school graduates in the coming years. Thus, enrollment projections are relatively stable.

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**Institutions of the Former  
State College System  
Headcount Student Enrollment**

Fall <u>Semester</u>	<u>Resident</u>	Non- <u>Resident</u>	<u>Total</u>	Fall <u>Semester</u>	<u>Resident</u>	Non- <u>Resident</u>	<u>Total</u>
1998 Actual	28,719	4,593	33,312	2003 Projected	30,741	4,866	35,607
1999 Actual	29,048	4,834	33,882	2004 Projected	30,820	4,866	35,686
2000 Actual	28,758	5,003	33,761	2005 Projected	30,907	4,866	35,773
2001 Actual	29,935	4,685	34,620	2006 Projected	31,001	4,866	35,867
2002 Actual	30,669	4,866	35,535	2007 Projected	31,103	4,866	35,969

**Institutions of the Former  
State College System  
Full-Time Equivalent Enrollment**

Fall <u>Semester</u>	<u>Resident</u>	Non- <u>Resident</u>	<u>Total</u>	Fall <u>Semester</u>	<u>Resident</u>	Non- <u>Resident</u>	<u>Total</u>
1998 Actual	21,794	4,050	25,844	2003 Projected	23,393	4,361	27,754
1999 Actual	22,031	4,176	26,207	2004 Projected	23,448	4,361	27,809
2000 Actual	21,980	4,282	26,262	2005 Projected	23,507	4,361	27,868
2001 Actual	22,649	4,174	26,823	2006 Projected	23,571	4,361	27,932
2002 Actual	23,342	4,361	27,703	2007 Projected	23,640	4,361	28,001

The following tables set forth certain historical financial information relating to the former College System Institutions. The information for the Fiscal Year ending June 30, 2002 is separately presented due to accounting changes resulting from the adoption by the Commission of Government Accounting Standards Board Statement No. 35.

**West Virginia Higher Education Policy Commission**

**Former State College System**  
**STATEMENTS OF CURRENT FUNDS REVENUES,**  
**EXPENDITURES, TRANSFERS AND OTHER CHANGES**  
**Five-Year Comparison**  
**(Dollars in Thousands)**

	1997	1998	1999	2000	2001
<b>REVENUES:</b>					
Tuition and fees	\$52,608	\$56,128	\$57,848	\$62,808	\$63,882
Government appropriations:					
State	77,661	80,837	85,442	86,590	96,910
Federal	0	0	0	0	0
Local	0	0	0	0	0
Government contracts and grants	58,326	66,784	72,265	80,458	94,517
Private gifts, grants and contracts	2,634	3,107	3,140	3,410	3,737
Income from investments	1,532	1,701	1,838	1,792	2,977
Sales and services of auxiliary enterprises	27,217	29,044	29,464	30,881	33,710
Sales and services of educational activities	1,063	1,137	1,130	1,313	1,216
Other sources	4,566	3,752	5,255	6,837	7,221
<b>TOTAL REVENUES</b>	<b>\$225,607</b>	<b>\$242,490</b>	<b>\$256,382</b>	<b>\$274,089</b>	<b>\$304,170</b>
<b>EXPENDITURES, TRANSFERS AND OTHER CHANGES:</b>					
Educational and general:					
Instruction	\$65,204	\$68,335	\$69,952	\$74,474	\$79,470
Research	219	254	1,899	677	2,040
Public service	2,340	1,861	2,367	4,272	7,975
Academic support	13,130	14,108	15,925	17,146	17,568
Student services	15,768	14,795	15,768	17,280	17,919
Operation and maintenance of plant	14,647	15,345	14,798	16,516	19,048
General institutional support	20,721	20,821	21,395	24,084	27,876
Scholarships and fellowships	53,290	60,434	64,794	70,931	78,041
Total educational and general expenditures	\$185,319	\$195,953	\$206,898	\$225,380	\$249,937
Transfers and other deductions (additions)	10,781	9,841	14,050	15,297	13,250
Auxiliary enterprises	32,178	34,043	35,697	38,695	39,840
<b>TOTAL EXPENDITURES, TRANSFERS AND OTHER CHANGES</b>	<b>228,278</b>	<b>239,837</b>	<b>256,645</b>	<b>279,372</b>	<b>303,027</b>
OTHER RESTRICTED RECEIPTS - Less recognized revenues	-292	1,413	1,897	1,145	146
<b>NET INCREASE (DECREASE) IN FUND BALANCE</b>	<b>-\$2,963</b>	<b>\$4,066</b>	<b>\$1,634</b>	<b>-\$4,138</b>	<b>\$1,289</b>

Notes:

- 1) The last State College System consolidated audit summary was produced for FY 2000. The data shown for FY 2001 is a summary of the individual audits for the institutions that were members of the former State College System.
- 2) West Virginia University Institute of Technology was a member of the former State College System until July 1, 1996 at which point it moved to the former University System. For comparison purposes, WVUIT is classified in the University System for all periods presented.

**West Virginia Higher Education Policy Commission**  
**Former State College System**  
 Combined Statements of Revenues, Expenses and Changes in Net Assets  
 Year Ended June 30, 2002

	Totals of Former <u>State College System Institutions</u>
<b>OPERATING REVENUES:</b>	
Student tuition and fees (net of scholarship allowance \$24,233,619)	\$46,045,092
Federal Appropriations	0
Local Appropriations	0
Contracts and grants:	
Federal	57,843,281
State	15,776,978
Local	
Private	3,975,143
Interest on student loans receivable	150,256
Sales and Services of Educational Activities	1,374,710
Auxiliary enterprise revenue (net of scholarship allowance)	31,465,900
Other operating revenue	<u>6,040,235</u>
Total operating revenues	\$162,671,595
<b>OPERATING EXPENSES:</b>	
Salaries and wages	\$117,314,818
Benefits	29,217,704
Supplies and other services	62,846,323
Student financial aid – scholarships and fellowships	31,531,426
Loan Cancellations and write offs	127,435
Utilities	7,535,915
Depreciation	12,096,832
Fees Assessed by the Commission for operations	1,173,139
Other Operating Expenses	<u>829,794</u>
Total operating expenses	\$262,673,386
<b>OPERATING LOSS</b>	(\$100,001,791)
<b>NONOPERATING REVENUE (EXPENSES)</b>	
State appropriations	102,694,705
Gifts	45,000
Investment income	3,478,508
Interest on indebtedness	(689,877)
Fees Assessed by the Commission for Debt Service and Reserves	(4,910,116)
Student financial aid payments to other institutions	
Loss on investments	
Other non operating expenses – net	<u>(311,340)</u>
Net non operating revenues	\$100,306,871
<b>INCOME BEFORE OTHER REVENUES, EXPENSES, GAINS OR LOSSES</b>	\$305,080
<b>CAPITAL PROJECTS BOND PROCEEDS FROM COMMISSION</b>	236,250
<b>CAPITAL GRANTS AND GIFTS</b>	<u>7,014,718</u>
<b>INCREASE IN NET ASSETS</b>	7,556,048
<b>TRANSFER OF LIABILITY FROM POLICY COMMISSION</b>	<u>(25,145,834)</u>
<b>INCREASE/DECREASE IN NET ASSETS</b>	(17,589,786)
<b>NET ASSETS, BEGINNING OF YEAR (AS RESTATED)</b>	<u>\$241,395,710</u>
<b>NET ASSETS, END OF YEAR</b>	<u>\$223,805,924</u>

**NOTES:**

- 1) The last separate system audits were produced for FY 2000. The system data shown for FY 2002 is a summary of the individual audits for the institutions that were members of the former systems.
- (2) West Virginia University Institute of Technology was a member of the former State College System until July 1, 1996 at which point it moved to the former University System. For comparison purposes, WVUIT is classified in the University System for the period presented.

## **Other Fees and Charges**

In addition to registration and tuition fees, other student fees are imposed for operating and capital support. REGISTRATION AND TUITION FEES CONSTITUTE THE ONLY REVENUES COMPRISING THE SOURCE OF PAYMENT OF THE BONDS. IT IS NOT ANTICIPATED THAT OTHER STUDENT FEES WILL CONSTITUTE REVENUES IN CONNECTION WITH THE PAYMENT OF THE BONDS.

## **VERIFICATION OF MATHEMATICAL COMPUTATIONS**

The accuracy of the arithmetical computations of the adequacy of maturing amounts of principal and interest on the government obligations placed in escrow to pay, when due, the principal of, premium, if any, and the interest on the Refunded Bonds will be verified by Causey Demgen & Moore Inc., certified public accountants. Such verification of arithmetical accuracy will be based upon information supplied by the Commission and the Underwriters.

## **NEGOTIABLE INSTRUMENTS**

The State Refunding Bond Act and the Act provide that the 2003 Bonds shall constitute negotiable instruments, subject only to provisions for registration of such Bonds.

## **UNDERWRITING**

Citigroup Global Markets Inc., Ferris, Baker Watts, Incorporated and Crews & Associates, Inc. (the "Underwriters") have agreed to purchase the Bonds at an aggregate purchase price of \$\_\_\_\_\_ plus accrued interest, pursuant to a bond purchase agreement between the Commission and the Underwriters. The Underwriters may offer and sell the Bonds to certain dealers (including dealers depositing such Bonds into investment trusts) and others at prices lower than the public offering price stated on the cover page hereof. The public offering prices set forth on the cover page hereof may be changed after the initial offering by the Underwriters.

## **RATINGS**

Standard & Poor's Ratings Services, a division of the McGraw Hill Companies, Inc. ("S & P") and Moody's Investors Service, Inc. ("Moody's") have assigned the 2003 Bonds the ratings of "\_\_\_" and "\_\_\_," respectively, on the understanding that the financial guaranty insurance policy insuring the timely payment of the principal of and interest on the Bonds, will be issued by MBIA Insurance Corporation upon delivery of the 2003 Bonds. S & P and Moody's have assigned the 2003 Bonds underlying ratings of "\_\_\_" and "\_\_\_," respectively. No other ratings have been applied for. Any desired explanation of the significance of such ratings should be obtained from S & P or Moody's, respectively.

There is no assurance that such ratings will continue for any given period of time or that it will not be reduced or withdrawn entirely by S & P or Moody's if, in their judgment, circumstances so warrant. The Commission and the Trustee undertake no responsibility either to notify the Owners of the 2003 Bonds of any revision or withdrawal of the ratings or to oppose any such revision or withdrawal, although the Commission will covenant in the Continuing Disclosure Certificate to provide notice of any rating changes to the Repositories. Any such downward revision or withdrawal may have an adverse effect on the market price of the 2003 Bonds

## **TAX MATTERS**

### **Opinion of Bond Counsel**

In the opinion of Spilman Thomas & Battle, PLLC ("Bond Counsel"), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the 2003 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code"). Bond Counsel is of the further opinion that interest on the 2003 Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although Bond Counsel observes that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income. A complete copy of the proposed form of opinion of Bond Counsel is set forth in Appendix F hereto.

To the extent the issue price of any maturity of the 2003 Bonds is less than the amount to be paid at maturity of such 2003 Bonds (excluding amounts stated to be interest and payable at least annually over the term of such 2003 Bonds), the difference constitutes "original issue discount," the accrual of which, to the extent properly allocable to each owner thereof, is treated as interest on the 2003 Bonds which is excluded from gross income for federal income tax purposes. For this purpose, the issue price of a particular maturity of the 2003 Bonds is the first price at which a substantial amount of such maturity of the 2003 Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of the 2003 Bonds accrues daily over the term to maturity of such 2003 Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis of such 2003 Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such 2003 Bonds. Owners of the 2003 Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of purchasers who do not purchase such 2003 Bonds in the original offering to the public at the first price at which a substantial amount of such 2003 Bonds is sold to the public.

2003 Bonds purchased, whether at original issuance or otherwise, for an amount greater

than their principal amount payable at maturity (or, in some cases, at their earlier call date) ("Premium Bonds") will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax-exempt interest received, and a purchaser's basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such purchaser. Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the 2003 Bonds. The Issuer and Commission have covenanted to comply with certain restrictions designed to insure that interest on the 2003 Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the 2003 Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the 2003 Bonds. The opinion of Bond Counsel assumes compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the 2003 Bonds may adversely affect the value of, or the tax status of interest on, the Bonds. Further, no assurance can be given that pending or future legislation or amendments to the Code, if enacted into law, or any proposed legislation or amendments to the Code, will not adversely affect the value of, or the tax status of interest on, the 2003 Bonds. Prospective purchasers of 2003 Bonds are urged to consult their own tax advisors with respect to proposals to restructure the federal income tax.

Certain requirements and procedures contained or referred to in the Bond Indenture, the Tax Certificate, and other relevant documents may be changed and certain actions (including, without limitation, defeasance of the 2003 Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. Bond Counsel expresses no opinion as to any 2003 Bond or the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than Spilman Thomas & Battle, PLLC.

Although Bond Counsel is of the opinion that interest on the 2003 Bonds is excluded from gross income for federal income tax purposes, the ownership or disposition of, or the accrual or receipt of interest on, the 2003 Bonds may otherwise affect an owner's federal liability. The nature and extent of these other tax consequences will depend upon the particular tax status of the owner or the owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

In the opinion of Bond Counsel, under the State Refunding Bond Act and the Act, the 2003 Bonds, their transfer and the income therefrom are free and exempt from taxation by the State or by any county, municipality, political subdivision or agency thereof, except for estate and inheritance taxes.

In addition, no assurance can be given that any future legislation, including amendments to the Code, if enacted into law, or changes in interpretation of the Code, will not cause interest on the 2003 Bonds to be subject, directly or indirectly, to federal income taxation, or otherwise prevent owners from realizing the full current benefit of the tax status of such interest. Prospective purchasers of the 2003 Bonds should consult their own tax advisors regarding any pending or proposed tax legislation. Further, no assurance can be given that the introduction or enactment of any such future legislation, or any action of the Internal Revenue Service (the "IRS"), including but not limited to regulation, ruling, or selection of the 2003 Bonds for audit examination, or the course or result of any IRS examination of the 2003 Bonds, or obligations which present similar tax issues, will not affect the market price for the 2003 Bonds.

### **LITIGATION**

There is no litigation of any nature pending or threatened against the Commission concerning the validity of the 2003 Bonds, and the Commission will furnish to the Underwriters no-litigation certificates certifying to the foregoing at the time of the delivery of the 2003 Bonds.

### **LEGALITY**

The validity of the 2003 Bonds and the tax exemption of interest on the 2003 Bonds are subject to the approval of Spilman, Thomas & Battle, PLLC, Charleston, West Virginia, Bond Counsel, whose approving opinion will be available at the time of delivery of the 2003 Bonds. Certain matters will be passed upon for the Commission by Bruce R. Walker, Esquire, Charleston, West Virginia, its counsel, for the Underwriters by their counsel, Goodwin & Goodwin, LLP, Charleston, West Virginia, and for the Bond Insurer by its counsel, Kutak Rock LLP, Irvine, California.

### **INDEPENDENT AUDITORS**

Certain financial statements of the Commission have been audited by Deloitte & Touche LLP, Pittsburgh, Pennsylvania, independent auditors, to the extent and for the periods indicated in their report. See "APPENDIX B - Certain Financial Information as to the Commission" herein.

### **CONTINUING DISCLOSURE**

The Commission is the obligated party with respect to the 2003 Bonds and will provide the continuing disclosure described below.

Within 270 days after the end of the Commission's fiscal year (currently June 30), commencing with the fiscal year ending June 30, 2003, the Commission has agreed to deliver to the Trustee and to each nationally recognized municipal securities information repository (the "NRMSIRS") recognized as such by the Securities and Exchange Commission under Rule 15c2-12 pursuant to the Securities Exchange Act of 1934, as amended, and any state information depository operated or designated by the State of West Virginia that is entitled to receive

information from all issuers within the State of West Virginia (a "SID" and collectively with all NRMSIRS, the "Repositories") a copy of its annual audited financial statements and certain other financial, statistical and operating data for such fiscal year. Pursuant to a Continuing Disclosure Certificate, the Commission will deliver, in a timely manner, to the Repositories, the Municipal Securities Rulemaking Board, notice of the events described in paragraph b(f)(i)(C) and (D) of such Rule 15c2-12. Currently, there is no SID for the State of West Virginia. The notices of material events will be filed with the Repositories. These covenants will be made in order to assist the purchasers in complying with the Rule. For a form of the Continuing Disclosure Certificate, see APPENDIX G -"FORM OF CONTINUING DISCLOSURE CERTIFICATE." The Commission has never failed to comply in all material respects with any previous undertakings with regard to said Rule to provide annual reports or notices of material events.

Any failure to comply with the continuing disclosure requirements described above shall not, however, constitute an Event of Default under the Indenture. Under the Continuing Disclosure Agreement a Bondowner's sole remedy for such failure is to seek an order for specific performance.

Information regarding the Commission, including annual financial information, may be obtained at the following address:

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, WV 25301  
Telephone: (304) 558-0281  
Attention: Director of Finance and Facilities

#### **AMENDMENTS TO THE RESOLUTION**

The Fifth Supplemental Resolution and the Sixth Supplemental Resolution set forth various proposed amendments to the General Resolution requiring consent of a majority of holders of the outstanding Bonds, including the 2003 Bonds, prior to taking effect. By their purchase of the 2003 Bonds, the Owners thereof will be deemed to have approved such amendments to the General Resolution, representing the consent of the Owners of the majority in principal amount of the Bonds Outstanding. A description of such proposed amendments appears in Appendix E - "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS" herein.

## MISCELLANEOUS

The foregoing descriptions or statements of provisions of the West Virginia Code of 1931, as amended and supplemented, the 2003 Bonds, the Resolution, the Bond Indenture and other documents of the Commission and the State Institutions of Higher Education are made subject, respectively, to all provisions thereof, to which reference is hereby made for complete information, and do not purport to be complete statements of such provisions. So far as any statements made in the Official Statement involve matters of opinion or projections or estimates whether or not so expressly stated, they are set forth as such and not as representations of fact, and no representation is made that any of the projections or estimates will be realized. Neither this Official Statement nor any statement, which may have been made orally or in writing, is to be construed as a contract with the Holders or purchasers of any of the 2003 Bonds. Copies of the documents mentioned in this paragraph are on file at the offices of the Commission. Delivery and distribution of this Official Statement has been duly authorized by the Commission.

### HIGHER EDUCATION POLICY COMMISSION

By: \_\_\_\_\_  
Chairman

## APPENDIX A

### STATE INSTITUTIONS OF HIGHER EDUCATION (INSTITUTIONAL MEMBERS OF THE FORMER STATE COLLEGE SYSTEM)

Bluefield State College  
219 Rock Street  
Bluefield, WV 24701

Concord College  
P.O. Box 1000  
Athens, WV 24712

Eastern WV Community and Technical College  
204 Washington Street, Suite B-1  
Moorefield, WV 26836

Fairmont State College  
1201 Locust Avenue  
Fairmont, WV 26554

Glenville State College  
200 High Street  
Glenville, WV 26351

Shepherd College  
P.O. Box 3210  
Shepherdstown, WV 25443

Southern WV Community and Technical College  
P. O. Box 2900  
Mount Gay, WV 25637

West Liberty State College  
General Delivery  
West Liberty, WV 26074

West Virginia Northern Community College  
College Square  
Wheeling, WV 26003

West Virginia State College  
P.O. Box 1000  
Institute, WV 25112

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**APPENDIX B**

**CERTAIN FINANCIAL INFORMATION AS TO THE COMMISSION**

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# ***State College System Bonds***

*Special Purpose Combined Financial Statements  
for the Years Ended June 30, 2002 and 2001, and  
Independent Auditors' Report*

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## INDEPENDENT AUDITORS' REPORT

To the West Virginia Higher Education Policy Commission  
Charleston, West Virginia

We have audited the accompanying combined statements of assets, liabilities, and fund balance (deficit) - modified cash basis of the State College System Bonds (the "Bonds"), as of June 30, 2002 and 2001, and the related combined statements of revenues collected, expenses and costs paid, and changes in fund balance (deficit) - modified cash basis for the years then ended. These financial statements are the responsibility of the Bonds' management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in Note 1 to the financial statements, these financial statements were prepared in connection with the related bond agreement on the modified cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, such financial statements present fairly, in all material respects, the combined assets, liabilities, and fund balance (deficit) of the Bonds at June 30, 2002 and 2001, and its combined revenues collected, expenses and costs paid, and changes in fund balance (deficit) for the years then ended, on the basis of accounting described in Note 1.

This report is intended solely for the information and use of the West Virginia Higher Education Policy Commission and management of the West Virginia Higher Education Policy Commission and the bondholders and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in cursive script that reads "Deloitte &amp; Touche LLP".

August 14, 2002

# STATE COLLEGE SYSTEM BONDS

## COMBINED STATEMENTS OF ASSETS, LIABILITIES, AND FUND BALANCE (DEFICIT) - MODIFIED CASH BASIS JUNE 30, 2002 AND 2001

	2002			2001			
	Revenue Fund	Construction Fund	Debt Service Reserve Fund	Revenue Fund	Construction Fund	Debt Service Reserve Fund	Combined
<b>ASSETS:</b>							
Deposits with the State Treasurer in accounts of the Policy Commission	\$ 5,982,178	\$ 777,246	\$ -	\$ 7,240,023	\$ 1,141,755	\$ -	\$ 8,381,778
Deposits with the State Treasurer in accounts of the Municipal Bond Commission			104,416			84,707	84,707
Deposits with the State Investment Management Board in accounts of the Policy Commission		257,718			249,996		249,996
	<u>\$ 5,982,178</u>	<u>\$ 1,034,964</u>	<u>\$ 104,416</u>	<u>\$ 7,240,023</u>	<u>\$ 1,391,751</u>	<u>\$ 84,707</u>	<u>\$ 8,716,481</u>
<b>LIABILITIES AND FUND BALANCE (DEFICIT)</b>							
Liabilities - Bond indebtedness	\$ 33,770,000	\$ -	\$ -	\$ 36,740,000	\$ -	\$ -	\$ 36,740,000
Fund balance (deficit)	<u>(27,787,822)</u>	<u>1,034,964</u>	<u>104,416</u>	<u>(29,499,977)</u>	<u>1,391,751</u>	<u>84,707</u>	<u>(28,023,519)</u>
	<u>\$ 5,982,178</u>	<u>\$ 1,034,964</u>	<u>\$ 104,416</u>	<u>\$ 7,240,023</u>	<u>\$ 1,391,751</u>	<u>\$ 84,707</u>	<u>\$ 8,716,481</u>

See notes to combined modified cash basis financial statements.

# STATE COLLEGE SYSTEM BONDS

## COMBINED STATEMENTS OF REVENUES COLLECTED, EXPENSES AND COSTS PAID, AND CHANGES IN FUND BALANCE (DEFICIT) - MODIFIED CASH BASIS YEARS ENDED JUNE 30, 2002 AND 2001

	2002				2001			
	Revenue Fund	Construction Fund	Debt Service Reserve Fund	Combined	Revenue Fund	Construction Fund	Debt Service Reserve Fund	Combined
REVENUES COLLECTED:								
Student fees, net	\$ 5,454,144	\$ -	\$ -	\$ 5,454,144	\$ 11,044,184	\$ -	\$ -	\$ 11,044,184
Income from investments	373,460	56,324	27,886	457,670	1,418,618	63,300	61,594	1,543,512
	<u>5,827,604</u>	<u>56,324</u>	<u>27,886</u>	<u>5,911,814</u>	<u>12,462,802</u>	<u>63,300</u>	<u>61,594</u>	<u>12,587,696</u>
EXPENSES AND COSTS PAID:								
Capital improvements and related costs	2,029,375	413,111	8,177	2,450,663	6,834,871	82,995	7,253	6,925,119
Interest			2,086,074	2,086,074			2,239,934	2,239,934
	<u>2,029,375</u>	<u>413,111</u>	<u>2,094,251</u>	<u>4,536,737</u>	<u>6,834,871</u>	<u>82,995</u>	<u>2,247,187</u>	<u>9,165,053</u>
EXCESS (DEFICIENCY) OF REVENUES COLLECTED OVER EXPENSES AND COSTS PAID	3,798,229	(356,787)	(2,066,365)	1,375,077	5,627,931	(19,695)	(2,185,593)	3,422,643
TRANSFERS TO (FROM):								
For payment of current debt service requirements	(5,056,074)		5,056,074		(5,079,935)		5,079,935	
For retirement of bonds	2,970,000		(2,970,000)		2,840,000		(2,840,000)	
	<u>(29,499,977)</u>	<u>1,391,751</u>	<u>84,707</u>	<u>(28,023,519)</u>	<u>(32,887,973)</u>	<u>1,411,446</u>	<u>30,365</u>	<u>(31,446,162)</u>
FUND BALANCE (DEFICIT), BEGINNING OF YEAR	\$ (27,787,822)	\$ 1,034,964	\$ 104,416	\$ (26,648,442)	\$ (29,499,977)	\$ 1,391,751	\$ 84,707	\$ (28,023,519)

See notes to combined modified cash basis financial statements.

# STATE COLLEGE SYSTEM BONDS

## NOTES TO COMBINED MODIFIED CASH BASIS FINANCIAL STATEMENTS YEARS ENDED JUNE 30, 2002 AND 2001

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### 1. ORGANIZATION

The State College System Bonds are obligations of the West Virginia Higher Education Commission (the "Commission"), an agency of the State of West Virginia. The Commission assumed the obligations for these bonds by virtue of Senate Bill 653 ("S.B. 653"). S.B. 653 was enacted by the West Virginia Legislature on March 19, 2000 and restructured public higher education in West Virginia. S.B. 653 created the Commission, which is responsible for developing, gaining consensus around and overseeing the implementation and development of a higher education public policy agenda. It is charged with oversight of public higher education institutions to ensure they are accomplishing their missions and implementing the provisions set by the State statute.

S.B. 653 abolished the Board of Trustees of the State College System effective June 30, 2000, and created a one-year Interim Governing Board. Effective July 1, 2001, certain powers were transferred to newly created Governing Boards at each of the institutions of higher education. These powers and duties include, but are not limited to, the power to determine, control, supervise and manage the financial, business and educational policies and affairs of the institution(s) under its jurisdiction, the duty to develop a master plan for the institution, the power to prescribe the specific functions and institution's budget request, the duty to review at least every five years all academic programs offered at the institution, and the power to fix tuition and other fees for the different classes or categories of students enrolled at its institution.

The State College System bonds were issued between 1977-1997 to construct, renovate and maintain various academic and other facilities of the State's colleges. These obligations are administered by the Commission, as successor to various former governing boards of the West Virginia public higher education system.

The Commission has the authority to assess each public institution of higher education for payment of debt service on these system bonds. The tuition and registration fees of the members of the former State College System are generally pledged as collateral for the Commission's bond indebtedness. Student fees collected by the institution in excess of the debt service allocation are retained by the institution for internal funding of capital projects and maintenance. The Bonds remain a capital obligation of the Commission.

In accordance with requirements of the General Resolution, accounting records for the Bonds are maintained on the cash receipts and disbursements basis. Consequently, certain revenues and the related assets are recognized when received rather than when earned, and certain expenses and costs are recognized when paid rather than when the obligation is incurred. The principal modification to the cash basis of accounting is the recording of bond indebtedness.

Deposits with the State Treasurer have been pooled for maximization of investment income. These deposits are combined with deposits of various other funds. Investment income on these deposits is allocated to the various funds based on the balance of these deposits at the end of the month in which the income was earned.

Fixed assets are not capitalized since they do not represent financial resources available for expenditure, but are items for which financial resources have been used. Title to and accountability for fixed assets remain with the State.

Certain ongoing costs associated with the planning and administration of capital improvements at College System institutions are paid from this bond fund on a regular basis.

## 2. STATE COLLEGE SYSTEM BONDS

The Series 1992 Bonds were issued in December 1992, in the original principal amount of \$46,825,000 under the provisions of the Code of West Virginia, 1931, as amended, particularly Chapters 13 and 18. The Bonds were issued simultaneously with a bond issue by the University System of West Virginia Board of Trustees to provide monies which, together with other monies available to the respective boards, were used to (i) refund and defease all outstanding West Virginia Board of Regents State System Tuition Fee Revenue Bonds, 1977 Series A; the West Virginia Board of Regents State System Tuition Fee Revenue Bonds, 1986 Series A; the West Virginia Board of Regents Registration Fee Revenue Refunding Bonds, 1989 Series A and B (collectively, the "Prior Bonds"); and (ii) to provide for the payment of costs of issuing the Series 1992 Bonds.

A portion of the proceeds of the Series 1992 Bonds was used along with certain amounts pledged pursuant to the Prior Bonds, to acquire direct obligations of the United States, the State, or other obligations, the principal and interest of which are guaranteed by the United States. The principal and interest of the acquired obligations, when due, will provide monies sufficient to pay, when due, the remaining principal and interest on the outstanding Prior Bonds. At June 30, 2002 and 2001, there were approximately \$8,670,000 and \$12,760,000, respectively, of Prior Bonds outstanding which have been defeased.

The Series 1992 Bonds, with varying interest rates up to 6% per annum, mature serially through April 2007 with term bonds which have mandatory sinking fund redemptions due April 2008 through April 2012.

The 1997 Series A Bonds were issued in November 1997 in the original principal amount of \$9,920,000 with varying rates up to 5.25% and mature serially through April 2010 with term bonds which have mandatory sinking fund redemptions due April 2011 through April 2027. The 1997 Series A Bonds constitute the second series of Bonds issued and secured under the General Resolution. The 1997 Series A Bonds were issued for the purpose of financing a portion of the costs of design, acquisition, construction and equipping of certain new facilities and renovations, repairs and replacements for the State College System (the "State College System Projects") and to pay a portion of costs of issuance of the 1997 Series A Bonds. The State College System Projects consisted generally of the following: (i) a new Clarksburg Center and campus fiber optics network for Fairmont State College; (ii) two new, fully-accessible elevators, a personnel lift and roof replacements for Glenville State College; and (iii) an academic, sports and recreation center for West Liberty State College.

The Bonds are revenue bonds payable solely from pledged College System revenues, including tuition and registration fees, and earnings attributable to the investment of pledged revenues. The 1997 Series A Bonds are on parity with the Series 1992 Bonds with respect to sources of and security for payment and in all other respects. No provision of the General Resolution is to be construed to authorize the Governing Board at any time or in any manner to pledge the credit or taxing power of the State nor is any obligation or debt created by the Governing Board or issued under the General Resolution deemed to be an obligation of the State. In addition, the Bonds are fully insured as to principal and interest by AMBAC Indemnity Corporation.

Under the General Resolution, the Governing Board shall at all times 1) fix and collect revenues (as defined in General Resolution), including tuition and registration fees, from College System institutions in an amount not less than 1.0 times the principal and interest due in each fiscal year the Bonds are outstanding and 2) fix and collect revenues, when combined with other moneys legally available to be used for such purposes each year, equal to at least 1.2 times the principal and interest due in each fiscal year the Bonds are outstanding. On August 2, 2001 the Policy Commission resolved that effective for the year ended June 30, 2002, the institutions would only remit the stipulated amounts sufficient to meet debt service requirements. During the years ended June 30, 2002 and 2001, the Policy Commission 1) collected revenues approximately 1.08 and 2.17 times the principal and interest due, respectively, and 2) had moneys available approximately 2.62 and 3.62 times the principal and interest due, respectively.

A summary of annual principal and interest payments for the years subsequent to June 30, 2002 is as follows:

Fiscal Year Ending June 30	1992 Series		1997 Series A		Total Principal	Total Interest	Total
	Principal Payments	Interest (Due April 1 and October 1)	Principal Payments	Interest (Due April 1 and October 1)			
2003	\$ 2,925,000	\$ 1,459,537	\$ 195,000	\$ 462,686	\$ 3,120,000	\$ 1,922,223	\$ 5,042,223
2004	3,065,000	1,291,350	200,000	454,106	3,265,000	1,745,456	5,010,456
2005	2,150,000	1,115,113	210,000	445,106	2,360,000	1,560,219	3,920,219
2006	2,245,000	988,800	220,000	435,447	2,465,000	1,424,247	3,889,247
2007	2,340,000	854,100	230,000	425,106	2,570,000	1,279,206	3,849,206
2008	2,445,000	713,700	240,000	414,296	2,685,000	1,127,996	3,812,996
2009	2,560,000	567,000	255,000	402,776	2,815,000	969,776	3,784,776
2010	2,675,000	413,400	265,000	390,282	2,940,000	803,682	3,743,682
2011	2,800,000	252,900	285,000	377,031	3,085,000	629,931	3,714,931
2012	1,415,000	84,900	295,000	362,069	1,710,000	446,969	2,156,969
2013			310,000	346,581	310,000	346,581	656,581
2014			325,000	330,306	325,000	330,306	655,306
2015			340,000	313,650	340,000	313,650	653,650
2016			360,000	296,225	360,000	296,225	656,225
2017			380,000	277,775	380,000	277,775	657,775
2018			400,000	258,300	400,000	258,300	658,300
2019			420,000	237,800	420,000	237,800	657,800
2020			440,000	216,275	440,000	216,275	656,275
2021			460,000	193,725	460,000	193,725	653,725
2022			485,000	170,150	485,000	170,150	655,150
2023			515,000	145,294	515,000	145,294	660,294
2024			535,000	118,900	535,000	118,900	653,900
2025			565,000	91,481	565,000	91,481	656,481
2026			595,000	62,525	595,000	62,525	657,525
2027			625,000	32,032	625,000	32,032	657,032
2028			#				
	<u>\$ 24,620,000</u>	<u>\$ 7,740,800</u>	# <u>\$ 9,150,000</u>	<u>\$ 7,259,924</u>	<u>\$ 33,770,000</u>	<u>\$ 15,000,724</u>	<u>\$ 48,770,724</u>

### 3. OTHER TRANSACTIONS

Certain purchasing, accounting, and other administrative services are provided by other State agencies to the Governing Board.

4. **MANDATORY WEST VIRGINIA UNIVERSITY INSTITUTE OF TECHNOLOGY ("WVUIT")  
TRANSFER**

With the transfer of WVUIT from the College System to the University System of West Virginia, effective July 1, 1996, in accordance with the University System of West Virginia, in accordance with the provisions of Senate Bill 591, WVUIT is required to make an annual payment of \$373,089 through 2012 to the College System Bonds for purposes of the College System's debt service. This amount is included within the College System's student fees income.

\* \* \* \* \*

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**APPENDIX C**

**STATE COLLEGE SYSTEM REGULAR STUDENT FEES**

**Higher Education Policy Commission**  
**Institutional Members of the Former State College System**  
**Approved Regular Tuition and Fees Per Semester**  
**Academic Year 2002-2003**

Institution	Tuition	Registration	HERF	Faculty Improvement	College Wide	Program Fee	EMBA Fee	Health Professional	Medical Education	Rate Per Semester
	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003
<b>Bluefield State College</b>										
Resident:										
Community College	125	50	350	45	629	0	0	0	0	1,199
Baccalaureate	125	50	350	45	729	0	0	0	0	1,299
Non-Resident:										
Community College	400	250	825	130	1,543	0	0	0	0	3,148
Baccalaureate	400	250	825	130	1,543	0	0	0	0	3,148
<b>Concord College:</b>										
Undergraduate:										
Resident	125	50	350	45	911	0	0	0	0	1,481
Non-Resident	400	250	825	130	1,719	0	0	0	0	3,324
Graduate:										
Resident	125	50	350	45	1,077	0	0	0	0	1,647
Non-Resident	400	250	825	130	1,243	0	0	0	0	2,848
<b>Eastern WV Comm. &amp; Technical College (1):</b>										
Resident	125	50	212	45	348	0	0	0	0	780
Non-Resident	400	250	533	130	1,429	0	0	0	0	2,742
<b>Fairmont State College:</b>										
Resident:										
Community College	220	50	350	45	589	0	0	0	0	1,254
Baccalaureate	220	50	350	45	718	0	0	0	0	1,383
Non-Resident:										
Community College	615	250	825	130	1,132	0	0	0	0	2,952
Baccalaureate	615	250	825	130	1,350	0	0	0	0	3,170
<b>Glenville State College:</b>										
Resident:										
Community College	296	50	350	45	455	0	0	0	0	1,196
Baccalaureate	158	50	350	45	747	0	0	0	0	1,350
Non-Resident:										
Community College	622	250	825	130	1,013	0	0	0	0	2,840
Baccalaureate	484	250	825	130	1,551	0	0	0	0	3,240
<b>Shepherd College:</b>										
Resident:										
Community College	125	50	350	45	744	0	0	0	0	1,314
Baccalaureate	125	50	350	45	863	0	0	0	0	1,433
Graduate (New)	125	50	350	45	1,410	0	0	0	0	1,980
Non-Resident:										
Community College	400	250	825	130	1,625	0	0	0	0	3,230
Baccalaureate	400	250	825	130	1,886	0	0	0	0	3,491
Graduate (New)	400	250	825	130	1,851	0	0	0	0	3,456
<b>Southern WV Comm. &amp; Technical College (1):</b>										
Resident	125	50	212	45	348	0	0	0	0	780
Non-Resident	400	250	533	130	1,429	0	0	0	0	2,742
<b>West Liberty State College:</b>										
Undergraduate:										
Resident	175	50	350	45	754	0	0	0	0	1,374
Resident - Health Professions	175	50	350	45	754	0	0	35	0	1,409
Non-Resident	450	250	825	130	1,894	0	0	0	0	3,549
Non-Resident - Health Prof.	450	250	825	130	1,894	0	0	35	0	3,584
Graduate: Master's Degree Program										
Resident	195	50	434	35	1,068	0	0	0	0	1,782
Non-Resident	635	250	1,472	105	2,546	0	0	0	0	5,008

**Higher Education Policy Commission  
 Institutional Members of the Former State College System  
 Approved Regular Tuition and Fees  
 Per Semester  
 Academic Year 2002-2003**

Institution	Tuition	Registration	HERF	Faculty Improvement	College Wide	Program Fee	EMBA Fee	Health Professional	Medical Education	Rate Per Semester
	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003
<b>WV Northern Community College(I):</b>										
Resident	125	50	212	45	408	0	0	0	0	840
Non-Resident	400	250	533	130	1,363	0	0	0	0	2,676
<b>WVU Institute of Technology:</b>										
<b>Resident:</b>										
Undergraduate	125	50	350	45	963	0	0	0	0	1,533
Engineering	125	50	350	45	963	128	0	0	0	1,661
Computer Science	125	50	350	45	963	128	0	0	0	1,661
Business Humanities & Science	125	50	350	45	963	23	0	0	0	1,556
Comm. & Tech	125	50	350	45	854	23	0	0	0	1,447
Graduate	135	50	405	49	1,047	0	0	0	0	1,686
Engineering	135	50	405	49	1,047	90	0	0	0	1,776
<b>Non-Resident:</b>										
Undergraduate	400	250	825	130	2,227	0	0	0	0	3,832
Engineering	400	250	825	130	2,227	154	0	0	0	3,986
Computer Science	400	250	825	130	2,227	154	0	0	0	3,986
Comm. & Tech.	400	250	825	130	2,227	23	0	0	0	3,855
Business, Humanities, Science	400	250	825	130	2,227	23	0	0	0	3,855
Graduate	500	250	1,005	135	2,327	0	0	0	0	4,217
Engineering	500	250	1,005	135	2,327	90	0	0	0	4,307
<b>Metro</b>										
Undergraduate	263	150	588	88	1,596	0	0	0	0	2,683
Undergraduate - Engineering	263	150	588	88	1,596	141	0	0	0	2,824
Undergraduate - Business Humanities & Science	263	150	588	88	1,596	23	0	0	0	2,706
Community College	263	150	588	88	1,566	0	0	0	0	2,654
Community College	263	150	588	88	1,566	23	0	0	0	2,676
<b>WV State College:</b>										
<b>Resident:</b>										
Community College	125	50	350	45	662	0	0	0	0	1,232
Baccalaureate	125	50	350	45	807	0	0	0	0	1,377
<b>Non-Resident:</b>										
Community College	400	250	825	130	1,562	0	0	0	0	3,167
Baccalaureate	400	250	825	130	1,562	0	0	0	0	

) Excluded from deposit into the State System Funds.

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**APPENDIX D**

**FORM OF FINANCIAL GUARANTY INSURANCE POLICY**

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# FINANCIAL GUARANTY INSURANCE POLICY

## MBIA Insurance Corporation Armonk, New York 10504

Policy No. [NUMBER]

MBIA Insurance Corporation (the "Insurer"), in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the Issuer to [PAYING AGENT/TRUSTEE] or its successor (the "Paying Agent") of an amount equal to (i) the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Obligations" shall mean:

**[PAR]  
[LEGAL NAME OF ISSUE]**

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners, or the Paying Agent payment of the Insured Amounts due on such Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Issuer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

IN WITNESS WHEREOF, the Insurer has caused this policy to be executed in facsimile on its behalf by its duly authorized officers, this [DAY] day of [MONTH, YEAR].

COUNTERSIGNED:

**SPECIMEN**  
\_\_\_\_\_  
Resident Licensed Agent

City, State

STD-RCS-6  
4/95

MBIA Insurance Corporation

**SPECIMEN**  
\_\_\_\_\_  
Attest:

Assistant Secretary

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**APPENDIX E**

**SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS**

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## APPENDIX E

### SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS

#### HIGHER EDUCATION POLICY COMMISSION (COLLEGE FACILITIES) 2003 SERIES A

*The following is a summary of certain material terms, provisions and covenants of (i) the General Resolution adopted by the Board of Directors of the State College System on September 9, 1992 (the "General Resolution"), as supplemented by the Fourth Supplemental Resolution adopted by the Higher Education Policy Commission (the "Commission"), successor to the Board, on March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution adopted by the Commission on April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution adopted by the Commission on June 5, 2003 (the "Sixth Supplemental Resolution") (the General Resolution, the Fourth Supplemental Resolution, the Fifth Supplemental Resolution and the Sixth Supplemental Resolution being collectively referred to herein as the "Resolution"), and (ii) the Bond Indenture by and between the Commission and Bank One, N.A., as Trustee, dated as of August 1, 2003 (the "Bond Indenture"). This summary makes use of terms defined in the Resolution and the Bond Indenture, not all of which are defined in "Definitions," which follows. This summary does not purport to be final, complete or definitive, and is qualified by reference to the Resolution and the Bond Indenture in their entirety for the complete and actual terms, provisions and covenants thereof.*

#### DEFINITIONS OF CERTAIN TERMS

*As used in this Summary, the following terms, unless the context requires otherwise, will have the meaning as set forth below. Any capitalized terms not defined below will have the same meaning as set forth in the Resolution and the Bond Indenture, copies of which can be obtained by contacting the Trustee.*

"2003 Bonds" means the Commission's Revenue Refunding Bonds (College Facilities), 2003 Series A.

"Act" means, collectively Chapter 18, Article 12B; Chapter 18B, Articles 1, 1B, 2, 3 and 10; and Chapter 13, Article 2G of the Code of West Virginia, 1931, as the same have been and may from time to time be amended.

"Additional Bonds" means any Bonds issued, executed, authenticated and delivered pursuant to the General Resolution, other than the Series 1992 Bonds, to finance the Costs of Projects or for any other purpose permitted thereunder and by the Act, and may include Variable Rate Bonds or Capital Appreciation Bonds, provided that, if Variable Rate Bonds, such Additional Bonds shall provide a cap upon the interest rate for such Additional Bonds and upon the interest rate to be paid to the issuer of any Credit Facility issued in connection with such Additional Bonds.

“Board” means the Board of Directors of the State College System, a public corporation and governmental instrumentality of the State, exercising essential governmental functions for a public purpose and created by the Act, and any body, agency, board or instrumentality which shall succeed to functions of the Board.

“Bonds” means one of the bonds delivered pursuant to the General Resolution, including the 1997 Bonds, the 2003 Bonds, any subsequently issued Additional Bonds and any subsequently issued Refunding Bonds issued pursuant to Article II thereof.

“Bond Counsel” means an attorney or firm of attorneys of recognized standing in the field of law relating to municipal, state and public agency financing, selected by the Commission.

“Bond Counsel’s Opinion” means an opinion signed by Bond Counsel rendered pursuant to the provisions of the Resolution.

“Bond Fund” means a fund by that name established with the Municipal Bond Commission or the Trustee pursuant to Section 7.01 of the General Resolution with respect to a Series of Bonds.

“Bond Insurer” means MBIA Insurance Corporation, a New York stock insurance Corporation.

“Bond Insurance Policy” means the financial guaranty insurance Policy by the Bond Insurer in connection with the payment of principal and interest on the 2003 Bonds.

“Bond Proceeds Fund” means a fund by that name established with the State Treasury pursuant to Section 7.01 of the General Resolution with respect to a Series of Bonds.

“Bond Year” means, with respect to a Series of Bonds, the period established and designed as such by the Related Supplemental Resolution.

“Bonds To Be Refunded” means that portion of the Prior Bonds to be refunded by the issuance of the 2003 Bonds.

“Certificate” means (i) a signed document either attesting to or acknowledging the circumstances, representations or other matters therein stated or set forth or setting forth matters to be determined pursuant to the General Resolution or (ii) the report of an Accountant as to audit or other procedures called for by the General Resolution.

“Closing Date” means the date upon which there is an exchange of the 2003 A Bonds for the proceeds of the sale thereof, representing the purchase price of the 2003 A Bonds, by the Original Purchaser.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.

“Colleges” means, collectively, the State institutions of higher education under the supervision, management and control of the Commission.

“Commission” means the Higher Education Policy Commission, a body corporate and governmental instrumentality of the State of West Virginia, and its successors and assigns. The Commission is the successor to the Board.

“Costs of Issuance” means all items of fees and expenses, directly or indirectly payable or reimbursable by or to the Commission and related to the authorization, sale and issuance of Bonds, including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Municipal Bond Commission, and any Paying Agent or Registrar, legal fees, expenses and charges, fees, expenses and disbursements of consultants and professionals, costs of credit ratings, fees and charges for preparation, execution, transportation and safekeeping of Bonds, costs and expenses of refunding, premiums, fees and expenses of any Credit Provider providing a Credit Facility with respect to any Bonds, financing charges, accrued interest with respect to the initial investment of proceeds of Bonds and any other cost, charge or fee in connection with the original issuance of Bonds.

“Credit Facility” means any letter of credit, policy of insurance, guaranty or similar instrument issued by a Credit Provider which secures the payment of the Principal, Purchase Price or Redemption Price of or interest on any Bonds, but shall not include any Reserve Fund Credit Facility.

“Credit Provider” means any bank, trust company, national banking association, insurance company or other entity which is the issuer of a Credit Facility and, in the case of a Credit Facility for Variable Rate Bonds, which is rated in the highest short-term rating category assigned by S&P or Moody’s.

“Debt Service” means, with respect to any particular Fiscal Year and any particular Series of Bonds, an amount equal to the sum of (i) all interest payable on such Bonds during such Fiscal Year, plus (ii) any Principal Installments of such Bonds during such Fiscal Year. For purposes of computing “Debt Service,” the rate of interest used to determine (i) above shall be a rate per annum equal to (1) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds, and (2) with respect to any Series of Variable Rate Bonds, the rate which is equal to the average of all the interest rates in effect (or which would have been in effect had such Bonds been Outstanding) during the immediately preceding twelve month period.

“Debt Service/Additional Bonds” means, with respect to any Fiscal Year, an amount equal to the aggregate of (i) all interest payable during such Fiscal Year on all Bonds to be Outstanding as of the date immediately after the delivery of the Additional Bonds to be issued, plus (ii) any Principal Installments payable during such Fiscal Year on all Bonds to be Outstanding as of the date immediately after the delivery of the Additional Bonds to be issued. For purposes of computing “Debt Service/Additional Bonds,” the rate of interest used to

determine (i) above shall be a rate per annum equal to with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such bonds.

“Electronic Means” means telecopy, telegraph, telex, facsimile transmission, e-mail transmission or other similar electronic means of communication, including a telephonic communication confirmed by writing or written transmission.

“Event of Default” means any of the events specified in Section 9.01 of the General Resolution.

“Fourth Supplemental Resolution” means the Fourth Supplemental Resolution adopted by the Commission on April 24, 2003 as it may be amended or supplemented, and includes all exhibits and schedules thereto.

“Fiscal Year” means a twelve-month period commencing on the first day of July of any year, or such other twelve-month period adopted as the Fiscal Year of the Commission.

“Fourth Supplemental Resolution” means the Fourth Supplemental Resolution adopted by the Commission on March 17, 2003 as it may be amended or supplemented, and includes all exhibits and schedules thereto.

“Government Agency Obligations” means bonds, notes or other evidence of indebtedness issued or guaranteed by, any agency of the United States of America.

“Government Obligations” means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, including but not limited to obligations issued by the Resolution Trust Corporation, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

“Interest Payment Date” means any date upon which interest on any Bonds is due and payable in accordance with their terms and any Related Supplemental Resolution. With respect to the 2003 Bonds, “Interest Payment Date” means each April 1 or October 1 commencing October 1, 2003.

“Municipal Bond Commission” means the West Virginia Municipal Bond Commission or its successor.

“Outstanding,” when used with reference to Bonds, means, as of any date, all Bonds theretofore delivered or thereupon being delivered under the General Resolution except:

- (a) Any Bond canceled by the Registrar or delivered to the Registrar for cancellation after purchase in the open market or because of payment at or redemption prior to maturity;
- (b) Any Bond (or portion of a Bond) deemed to be paid within the meaning of Article VIII of the General Resolution; and
- (c) Any Bond in lieu of or in substitution for which other Bonds shall have been delivered pursuant to Article III of the General Resolution.

“Owner,” “Holder,” “Bondholder,” “Registered Owner” or similar term when used with reference to a Bond, means any person in whose name a Bond is registered on the registration books of the Commission maintained by the Registrar.

“Paying Agent” means the Municipal Bond Commission and Bank One, N. A., West Virginia, or its successors, designated as a paying agency or place of payment for the 2003 Bonds.

“Permitted Investments” means the following:

- (a) (i) cash (insured at all times by FDIC or otherwise collateralized with obligations described in clause (ii) below), or;
- (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America.
- (b) obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, including:
  - Export-Import Bank
  - Farm Credit System Financial Assistance Corporation
  - Rural Economic Community Development Administration  
(formerly the Farmers Home Administration)
  - General Services Administration
  - U. S. Maritime Administration
  - Small Business Administration
  - Government National Mortgage Association (GNMA)
  - U. S. Department of Housing & Urban Development (PHA's)
  - Federal Housing Administration
  - Federal Financing Bank
- (c) direct obligations of any of the following federal agencies.

- senior debt obligations rated “AAA” by S&P and “Aaa” by Moody’s issued by the federal National Mortgage Association or the Federal Home Loan Mortgage Corporation
- senior debt obligations of other Government Sponsored Agencies approved by [Insurer]
- obligations of the Resolution Funding Corporation (REFCORP)
- senior debt obligations of the Federal Home Loan Bank System

(d) U. S. dollar denominated deposit accounts, federal funds and banker’s acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of A-1” or “A-1+” by S&P and “P-1” by Moody’s and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(e) commercial paper which his rated at the time of purchase in the single highest classification, “A-1+” by S&P and “P-1” by Moody’s and which matures not more than 270 days after the date of purchase;

(f) Investments in a money market fund rated “AAAm” or “AAAm-G” or better by S&P including money market funds managed by the Paying Agent or an affiliate of the Paying Agent;

(g) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice;

(i) which are rated, based on an irrevocable escrow account or fund (the “escrow”), in the highest rating category of S&P and Moody’s or any successors thereto; or

(ii)(i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in Paragraph A(2) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public

accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(h) investment agreements approved in writing by the Bond Insurer supported by appropriate opinions of counsel with notice to S&P; and

(i) general obligations of states with a rating of at least "A2/A" or higher by both Moody's and S&P.

(j) other forms of investments (including repurchase agreements) approved in writing by the Bond Insurer with notice to S&P.

The value of the above investments shall be determined as follows:

"Value," which shall be determined as of the end of each month, means that the value of any investments shall be calculated as follows:

- (w) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;
- (x) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Commission in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;
- (y) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest, and
- (z) as to any investment not specified above: the value thereof established by prior agreement between the Commission and the Bond Insurer.

"Principal Installment" means, as of any date of calculation, (i) the aggregate principal amount of Outstanding Bonds due on a certain future date, reduced by the aggregate principal amount of such Bonds which would be retired by reason of the payment when due and application in accordance with the General Resolution of Sinking Fund Payments payable before such future date, plus (ii) any Sinking Fund Payments due on such certain future date, plus (iii) with respect to any Capital Appreciate Bonds due on such certain future date, plus (iii) with

respect to any Capital Appreciation Bonds due on such certain future date, the Accredited Value of such Capital Appreciation Bonds.

“Principal Payment Date” means, with respect to any Series of Bonds, any date upon which a Principal Installment is due and payable.

“Prior Bonds” means, collectively, as of any date, Bonds theretofore issued by the Commission or its predecessors and Outstanding as of the date of issuance of the 2003 Bonds.

“Registrar” means Bank One, Charleston, West Virginia, or its successors, designated as registrar for the 2003 Bonds.

“Related Supplemental Resolution” means with respect to a Series of Bonds, the Supplemental Resolution providing for the issuance of such Bonds. The Fourth Supplemental Resolution, the Fifth Supplemental Resolution and the Sixth Supplemental Resolution, collectively, are the Related Supplemental Resolutions providing for issuance of the 2003 Bonds.

“Revenues” means, collectively

(i) all tuition and registration fees collected at Colleges governed by the Commission and earnings thereon, except tuition collected at Southern West Virginia Community and Technical College, Eastern West Virginia Community and Technical College and West Virginia Northern Community and Technical College;

(ii) all proceeds of any Bonds deposited with the State Treasury or the Municipal Bond Commission and earnings thereon, until expended;

(iii) all other fees, charges, rentals, grants and moneys from any source collected at Colleges governed by the Commission and earnings thereon, that may now or hereafter be legally available for payment of Debt Service and that are specifically pledged by resolution of the Commission for payment of any Bonds pursuant to a Supplemental Resolution;

(iv) any other funds from any source that may now or hereafter be legally pledged by the Commission and made available for payment of Debt Service and are specifically pledged by the Commission for such payment by Supplemental Resolution; and

(v) all tuition and registration fees collected at Colleges previously governed by the State College System Board and now supervised by the Commission and earnings thereon, provided that the consolidation of such tuition and registration fees with the fees described in clause (i) of this definition of Revenues has been approved by Supplemental Resolution.

“S&P” means Standard & Poor’s Rating Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the state of its organization, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Commission by notice to the Trustee.

“Series” means all of the Bonds delivered on original issuance in a simultaneous transaction and designated as a distinct series, regardless of variations in maturity, interest rate, Sinking Fund Payments or other provisions, and any Bonds thereafter delivered in lieu of or in substitution for (but not to refund) such Bonds as herein provided.

“Sinking Fund Payment” means, as of any particular date of calculation and with respect to a Series of Bonds, the amount required to be paid by the Commission on a certain future date for the retirement of Outstanding Bonds of such Series which mature after said future date, but does not include any amount payable by the Commission by reason of the maturity of a Bond or by call for redemption at the option of the Commission.

“Sixth Supplemental Resolution” means the Sixth Supplemental Resolution adopted by the Commission on June 4, 2003 as it may be amended or supplemented, and includes all exhibits and schedules thereto.

“State Treasury” means the treasury of the State of West Virginia established pursuant to the Constitution and Laws of the State.

“Tax Agreement” means the tax agreement, non-arbitrage certificate or similar agreement and/or certificate which may be entered into or delivered by the Commission relating to a Series of Bonds.

“Tax-Exempt Bonds” means Bonds of any Series the interest on which, in Bond Counsel’s Opinion, is excludable from the gross income of the recipients thereof for federal income tax purposes.

“Treasurer” means the Treasurer of the State of West Virginia.

“Trust Estate” has the meaning set forth in the preamble to the Bond Indenture.

“Trustee” means Bank One, N.A., a national banking association, duly organized and existing under the laws of the United States of America and duly authorized to exercise corporate trust powers under the laws of the State of West Virginia, having a principal corporate trust office in Charleston, West Virginia, or its successor, as Trustee under the Bond Indenture as provided in Section 8.01 thereof.

“West Virginia State Legislature” means the legislature of the State of West Virginia as it shall convene from time to time.

## THE RESOLUTION

General Resolution Constitutes Contract. The General Resolution constitutes a contract between the Commission, the Holders of their Bonds and any Credit Providers, and the pledges made in the General Resolution and the covenants and agreements therein set forth to be performed by the Commission shall be for the equal benefit, protection and security of the Holders of any and all of the Bonds, all of which, without regard to the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as is expressly provided therein.

Authorization for Issuance of Bonds. The Fourth Supplemental Resolution, the Fifth Supplemental Resolution and the Sixth Supplemental Resolution, collectively, authorize issuance by the Commission of the 2003 Bonds to provide sufficient fund (together with other moneys of the Commission) to refund the Bonds To Be Refunded and to pay Costs of Issuance of the 2003 Bonds.

Bonds are Limited Obligations. The Bonds issued under the General Resolution are limited obligations of the Commission payable solely from the Revenues. No provisions of the General Resolution shall be construed to authorize the Commission at any time or in any manner to pledge the credit or taxing power of the State, nor shall any of the obligations or debts created by the Commission or issued under the General Resolution be deemed to be obligations of the State.

Additional Bonds. Prior to issuance of any Additional Bonds, the Commission is required by the General Resolution to deliver a Certificate to the effect that:

(i) all payments into the respective funds and accounts provided for in the General Resolution and any Related Supplemental Resolution respecting Bonds theretofore issued and then Outstanding shall have been made in full to the date of issuance and delivery of such Additional Bonds and no Event of Default thereunder shall then be existing; and

(ii) the Revenues of the type set forth in subsection (i) of the definition of “Revenues” in Section 1.02 of the General Resolution, collected by the

Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds shall have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); or

(iii) (a) the Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds, plus Projected Revenues (as defined below) have not been less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); and (b) and Projected Revenues have not been greater than 20% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or which were not pledged under the General Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of such Additional Bonds.

Accounts and Reports. (a) The Commission shall keep, or cause to be kept, proper books of record and account in which complete and accurate entries are made, which shall at all reasonable times be subject to the inspection of the Registrar and the Owners of an aggregate of not less than five percent (5%) in principal amount of Bonds Outstanding or their representatives duly authorized in writing.

(b) The Commission shall annually file with the Registrar and with any Credit Provider, within one hundred twenty (120) days after the close of each Fiscal Year, a copy of an audited annual financial report as to the Revenues and their obligations under the Resolutions during such Fiscal Year, and financial statements for such Fiscal Year, setting forth in reasonable detail:

(i) A combined statement of assets, liabilities and fund balance at the end of such Fiscal Year; and

(ii) A statement of revenues collected, expenses and costs paid and changes in fund balance in accordance with the categories or

classifications established by the Commission for its administrative and program purposes and showing the revenues and expenses during such Fiscal Year.

Such financial statements shall be accompanied by an Accountant's Certificate stating whether the financial statements examined fairly present the financial position of the Commission at the end of the Fiscal Year, and whether the results of its operations and the changes in financial position for the period examined are in conformity with the State's modified basis of cash receipts and disbursements which is a comprehensive basis of accounting other than generally accepted accounting principles.

(c) If at any time during any Fiscal Year there shall have occurred an Event of Default referred to in subsection (a) or (b) of Section 9.01 of the General Resolution, then the Commission shall file or cause to be filed with the Registrar within sixty (60) days after the close of such Fiscal Year, a special report, accompanied by an Accountant's Certificate as to the fair presentation of the financial statements contained therein, setting forth in reasonable detail the individual balances and receipts and disbursements for each Fund.

Debt Service Coverage. The Commission shall at all times fix and otherwise provide for the collection of Revenues in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period. To evidence its compliance with this covenant, the Commission shall, on or before each November 1, deliver to the Municipal Bond Commission, any Credit Provider and each Original Purchaser of any Series of Bonds, a Certificate of an independent certified public accountant reciting that the Commission was in compliance with Section 6.06 of the General Resolution during the preceding Budget Period and setting forth the amount of Revenues collected, the amount of Debt Service paid and the percentage of Debt Service coverage in effect for such Budget Period.

Operation and Maintenance. The Commission will, so long as any Bonds are Outstanding, cause the Colleges under their governance to maintain their facilities in good condition and operate the same in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof.

Insurance. The Commission will carry such insurance and in such amounts as is customarily carried with respect to properties similar to the facilities under its governance, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Commission will require that each of its contractors and all subcontractors maintain workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance during the construction of any Project. The Commission will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to all subcontractors as their interests may appear, during construction of any Project in the full insurable value thereof. The proceeds of all such insurance shall be used only for the repair and restoration of the damaged or destroyed properties. The Commission will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and

customarily carried with respect to works and properties similar to the facilities under their governance.

Notwithstanding any of the foregoing, the Commission may provide for the insurance required by the General Resolution through the State Board of Risk & Insurance Management by any program of self-insurance which the State provides for itself and its agencies.

Funds and Accounts. The General Resolution creates the following funds to be held by the Municipal Bond Commission:

- (a) A Bond Fund with respect to each Series of Bonds;
- (b) A Debt Service Reserve Fund with respect to each Series of Bonds for which the Debt Service Reserve Requirement is greater than zero; and
- (c) For any Series of Bonds issued in whole or in part as Variable Rate Bonds, a Purchase Fund if so specified by a Related Supplemental Resolution.

The General Resolution creates the following funds to be held by the State Treasury or by a Trustee as determined by the Commission:

- (a) A Bond Proceeds Fund with respect to each Series of Bonds; and
- (b) A Costs of Issuance Fund for each Series of Bonds.

In addition to the foregoing funds, the Commission may establish such other funds and accounts as they may deem appropriate for any particular Series of Bonds by provisions therefor in the Related Supplemental Resolution.

Pledge of Revenues. The payment of the Debt Service on all Bonds issued under the General Resolution shall be secured equally and ratably by a first lien on the Revenues, and the Commission pledges the Revenues to payment of the Principal, Purchase Price and Redemption Price of and interest on the Bonds, but the existence of such pledge shall not prevent the expenditure, deposit or commingling of Revenues by the Board so long as all required payments under the General Resolution and any Supplemental Resolution are made at the times and in the amounts specified therein, provided further, however, that the Commission shall not commingle any of the Revenues with any revenues of the state university system. The Commission shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of such Revenues pledged under the General Resolution and all the rights of the Owners under the General Resolution against all claims and demands of all persons whomsoever.

Collection and Transfer of Revenues. Notwithstanding any other provisions of the General Resolution to the contrary, the collection and transfer of the Revenues shall be governed as follows: Beginning on September 1, 2003, and on each February 1 and September 1 thereafter the Treasurer shall prohibit any withdrawals from the capital improvement funds held by the Treasurer on behalf of each College until the amounts on deposit in such funds equal one-half of the Debt Service on the Bonds (the "Semi-Annual Debt Service Requirement") for the 12-month period beginning on September 1 of each year (an "Annual Payment Period") allocable to such College and will only release funds for such College's use in excess of the College's allocable share of the Semi-Annual Debt Service Requirement. The Treasurer shall disburse the aggregate amount retained as the Semi-Annual Debt Service Requirement from all Colleges to the Municipal Bond Commission and the Trustee for the Bonds, as the case may be, at the times required hereunder for making such Debt Service transfers. The Commission agrees to furnish the Treasurer with the allocable amount payable by each College as its Semi-Annual Debt Service Requirements for each Annual Payment Period prior to September 1 of such Annual Payment Period.

Bond Funds. (a) Revenues sufficient for such purposes shall be applied by the Commission in the following order of priority, and except as may otherwise be provided in a Supplemental Resolution, such deposits shall be made semiannually, on the first day of each April and October:

(i) To each Bond Fund, an amount equal to the interest which has accrued since the last Interest Payment Date for the related Series of Bonds to and including the applicable Interest Payment Date and not previously deposited therein, plus an amount equal to one-half of the Principal which shall be due and payable on the applicable Principal Payment Date for the related Series of Bonds and not previously deposited therein;

(ii) To the Municipal Bond Commission, Registrar, Paying Agents, Credit Providers and other agents or fiduciaries for any Series of Bonds, the fees and expenses thereof, payable on or prior to such date;

(iii) On each Interest Payment Date for a Series of Bonds, to the applicable Bond Fund, any deficiency in the amount necessary to pay the interest due on such Interest Payment Date;

(iv) To each Principal Payment Date for a Series of Bonds, to the applicable Bond Fun, any

deficiency in the amount necessary to pay the Principal due on such Principal Payment Date;

(v) To each Debt Service Reserve Fund, the amount required to be deposited therein pursuant to Section 7.04(a) of the General Resolution, or the Related Supplemental Resolution authorizing such Series of Bonds; and

(vi) To the applicable Bond Fund, the amount designated by the Commission for the optional or mandatory redemption of the related Series of Bonds (other than Sinking Fund Payments).

(b) In the event the Revenues are insufficient during any semiannual or other period to make all of the deposits required by the foregoing for all Bonds issued under the General Resolution, the Commission shall make payments pro-rata, in accordance with the respective Debt Service Requirements for each Series of Bonds issued under the General Resolution.

(c) As indicated above (see "Collection and Transfer of Revenues" herein), notwithstanding any other provisions in the General Resolution to the contrary, the collection and transfer of the Revenues shall be governed as follows: Beginning on September 1, 2003, and on each February 1 and September 1 thereafter the Treasurer shall prohibit any withdrawals from the capital improvement funds held by the Treasurer on behalf of each College until the amounts on deposit in such funds equal one-half of the Semi-Annual Debt Service Requirement for the 12-month Annual Payment Period beginning on September 1 of each year allocable to such College and will release funds for such College's use in excess of the College's allocable share of the Semi-Annual Debt Service Requirement. Such ability of the Treasurer to release funds for each College's use in excess of the College's respective allocable share of the Semi-Annual Debt Service Requirement in effect amends subsections (a)(iii), (a)(iv) and (a)(vi) above.

Costs of Issuance Funds. The Commission shall deposit into the Costs of Issuance Fund relating to a Series of Bonds the amount required to be deposited therein in the Related Supplemental Resolution. The State Treasury is authorized by the General Resolution to make disbursements from a Costs of Issuance Fund upon receipt of a Requisition signed by an Authorized Officer of the Commission.

Creation of Additional Funds, Accounts and Subaccounts. The Municipal Bond Commission shall, at the written request of the Commission, establish such additional funds, accounts and subaccounts within or in addition to any of the funds established under the General Resolution as shall be specified in such written request, for the purpose of identifying more precisely the sources of payments into and disbursements from such funds, accounts and subaccounts; but the establishment of any such additional funds, accounts or subaccounts shall

not alter or modify any of the requirements of the General Resolution with respect to the deposit or use of moneys in any fund, account or subaccount established thereunder.

Investment of Certain Funds. Any fund or account held by the Commission or on behalf of the Commission by the Municipal Bond Commission or the State Treasury, may be invested or reinvested or deposited in Permitted Investments having yields and maturities as determined by an Authorized Officer. Subject to the right of an Authorized Officer to direct the investment or deposit of funds under the General Resolution, moneys in any fund or account established by the General Resolution and held by the Municipal Bond Commission or the State Treasury shall be continuously invested and reinvested or deposited and redeposited by the Municipal Bond Commission or the State Treasury in the highest yield Permitted Investments that may be reasonably known to the Municipal Bond Commission or the State Treasury, with a view toward maximizing yield (with proper preservation of principal) and minimizing the instances of uninvested funds. An Authorized Officer shall consult with the Municipal Bond Commission and the State Treasury from time to time as to the investment of amounts in the funds and accounts held by the Municipal Bond Commission or the State Treasury. An Authorized Officer may direct the Municipal Bond Commission or the State Treasury to, or in the absence of direction, the Municipal Bond Commission or the State Treasury shall, invest and reinvest the moneys in all funds and accounts in Permitted Investments so that the maturity date or date of redemption at the option of the owner thereof shall coincide as nearly as practicable with the times at which moneys are needed to be so expended. The Permitted Investments purchased shall be held by the Municipal Bond Commission or the State Treasury and shall be deemed at all times to be part of such fund or account, and the Municipal Bond Commission or the State Treasury shall keep the Commission advised as to the details of all such investments.

Valuation and Sale of Investments. Except as may be provided in a Related Supplemental Resolution with respect to funds and accounts relating to the applicable Series of bonds, in computing the amount in any fund or account, Permitted Investments shall be valued at the lower of the cost or market price, exclusive of accrued interest. With respect to all funds and accounts except a Debt Service Revenue Fund, valuation shall occur annually. All Debt Service Reserve Funds shall be valued semiannually, except in the event of a withdrawal from such Debt Service Reserve Fund, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in any Debt Service Reserve Fund shall at any time be less than the applicable Debt Service Reserve Requirement, such deficiency shall be made up from first available moneys after required deposits to the Related Bond Fund.

Defeasance. (a) If the Commission shall pay or cause to be paid to the Owners of the Bonds the Principal, Purchase Price or Redemption Price, if applicable, and interest and all other amounts due or to become due thereon, at the times and in the manner stipulated therein and in the applicable General Resolution, then the pledge of the Revenues, payments made by such Commission in satisfaction of covenants contained herein and other moneys, securities and funds hereby pledged and all other rights granted thereby shall thereupon cease, terminate and become void and be discharged and satisfied. If the Commission shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Outstanding Bonds of a particular Series the Principal, Purchase price or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the General Resolution, then

such Bonds shall cease to be entitled to any lien, benefit or security thereunder and all covenants, agreements and obligations of the Commission to the Owners of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Payments of Principal and interest on Bonds made by a Credit Provider pursuant to a Credit Facility shall not be deemed to have been paid within the meaning of this Section and such payments shall continue to be due and owing under the applicable General Resolution until paid by the Commission within the meaning of this provision and any agreement pursuant to the terms of which such Credit Facility is delivered.

Bonds for the payment of which moneys or securities shall have been set aside and held in trust by the Municipal Bond Commission, the State Treasury or an escrow trustee designated by the applicable Commission (through deposit by such Commission of funds for such payment or otherwise) shall be deemed to have been paid within the meaning and with the effect expressed in the preceding paragraph. All Bonds shall, prior to the maturity or Redemption Date thereof, be deemed to have been paid within the meaning and with the effect expressed in the preceding paragraph if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Commission shall have given to the Municipal Bond Commission, the State Treasury or escrow trustee, in form satisfactory to it, irrevocable instructions to give notice of redemption of such Bonds (other than Bonds which have been delivered to the Registrar by the Commission and cancelled by the Registrar as provided in the paragraph next following prior to the mailing of such notice of redemption) on said date as provided in Article V of the General Resolution, (ii) there shall have been deposited with the Municipal Bond Commission or escrow trustee, Defeasance Obligations (including any Defeasance Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Municipal Bond Commission or escrow trustee at the same time, shall be sufficient to pay when due the Principal or Redemption Price of and interest due and to become due on said Bonds on and prior to the Redemption Date or maturity date thereof, as the case may be, and (iii) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Commission shall have given the Municipal Bond Commission or escrow trustee, in form satisfactory to it, irrevocable instructions to mail, by first class mail, postage prepaid, as soon as practicable, a notice to the Owners of such Bonds as of the date of such deposit that the deposit required by (ii) above has been made and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or Redemption Date upon which moneys are to be available for the payment of the Principal or Redemption Price of and interest on said Bonds (other than Bonds which have been delivered to the Registrar by the Commission and cancelled by the Registrar as provided in the following paragraph prior to the mailing of the notice of redemption referred to in (i) above).

If at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with the preceding paragraph which are not to be redeemed prior to their maturity date or (ii) prior to the mailing of the notice of redemption referred to in the preceding paragraph with respect to Bonds deemed to have been paid in accordance with the preceding paragraph which are to be redeemed on any date prior to their maturity, the Commission purchases or otherwise acquires any such Bonds and delivers such Bonds to the Registrar prior to their

maturity date or the date of mailing notice of redemption, as the case may be, the Registrar shall immediately cancel all such Bonds so delivered. Such delivery of Bonds to the Registrar shall be accompanied by directions from an Authorized Officer to the Registrar specifying the portion, if any, of such Bonds to be applied against the obligation of the Municipal Bond Commission or escrow trustee to pay Bonds deemed paid in accordance with the preceding paragraph upon their maturity date and the portion, if any, of such Bonds to be applied against the obligation of the Municipal Bond Commission or escrow trustee to redeem Bonds deemed paid in accordance with the preceding paragraph on any date prior to their maturity.

Defaults and Remedies. Each of the following events is an “Event of Default” under the General Resolution:

(a) Failure by the Commission to make payment of the Principal or Redemption Price, if any, of any Bond when and as the same shall become due, whether at maturity or upon call for redemption or otherwise;

(b) Failure by the Commission to make payment of interest on any of the Bonds when and as the same shall become due;

(c) Failure or refusal by the Commission to comply with the provisions of the General Resolution or any Supplemental Resolution, or default by the Commission in the performance or observance of any of the covenants, agreements or conditions on its part contained therein or in the Bonds, and the continuance of such failure, refusal or default for a period of sixty (60) days after written notice thereof by the Municipal Bond Commission, a Credit Provider or the Owners of not less than fifty (50%) in Principal amount of the applicable Outstanding Bonds;

(d) A decree or order by a court of competent jurisdiction shall have been entered adjudging the Commission a bankruptcy or insolvent, or approving as properly filed a petition seeking reorganization or arrangement of the Commission under the United States Bankruptcy Code or any other similar applicable federal or state law, and such decree or order shall have continued undischarged and unstayed for a period of ninety (90) days; or a decree or order of a court of competent jurisdiction for the appointment of a receiver or trustee or assignee in bankruptcy or insolvency of the Commission or of its property, or for the winding up or liquidation of its affairs, shall have been entered, and such decree or order shall have

remained in force undischarged and unstayed for a period of ninety (90) days;

(e) The Commission shall institute proceedings to be adjudicated a voluntary bankrupt, or shall consent to the institution of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization or arrangement under United States Bankruptcy Code or any other similar application federal or state law, or shall consent to the appointment of a receiver or trustee or assignee in bankruptcy or insolvency of its or of its property, or shall make assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(f) Any event of default under any Supplemental Resolution.

Remedies. (a) Upon the happening and continuance of any Event of Default, any Credit Provider or the Owners of not less than fifty percent (50%) in principal amount of the Bonds Outstanding under the General Resolution may, by written notice to the Commission and each Credit Provider, declare the entire Principal of such Bonds to be due and payable, and upon such declaration, the same shall become due and payable, anything in the General Resolution or such Bonds to the contrary notwithstanding. This provision, however, is subject to the condition that if, at anytime after the Principal of such Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as in the General Resolution provided, (i) the Commission pays or deposits with the Municipal Bond Commission a sum sufficient to pay all interest due upon all such Bonds and the Principal and premium, if any, of all such Bonds that shall have become due otherwise than by acceleration (with interest on overdue interest and on such Principal and premium, if any, at the rate specified in the Related Supplemental Resolution) and the expenses of the Municipal Bond Commission, the Registrar and the Paying Agent, (ii) any and all Events of Default under the General Resolution, other than the nonpayment of Principal of and accrued interest on such Bonds that shall have become due by acceleration, shall have been remedied, and (iii) each Credit Facility is fully reinstated to the coverage amount provided in the Related Supplemental Resolution, such Owners shall, with the consent of each Credit Provider, waive all Events of Default and rescind and annul such declaration and its consequences; but no such waiver or rescission and annulment shall extend to or affect any subsequent Event of Default, or shall impair any right consequent thereon. The Owners shall not have the right to waive any Event of Default under the General Resolution, if, at the time of such Event of Default, a Credit Facility is in effect with respect to any Series of Bonds, without the written consent of the Credit Provider to such waiver.

(b) Upon the happening and continuance of any Event of Default, and in addition to the remedy provided in (a) above, the Owners of not less than fifty percent (50%) in aggregate Principal amount of the Bonds Outstanding under the General Resolution, may

proceed to protect and enforce the rights of the Owners by such of the following remedies, which are then permitted by law, as they shall deem most effectual to protect and enforce such rights:

(i) By mandamus or other suit, action or proceeding at law or in equity, to enforce all rights of the Owners, including the right to require the Commission to receive and collect Revenues adequate to enable the Commission to carry out any of the covenants or agreements with Owners and to perform its duties as prescribed by law;

(ii) By bringing suit upon the Bonds;

(iii) By action or suit in equity, to require the Commission to account as if it were the trustee of an express trust for the Owners of the Bonds; or

(iv) By action or suit in equity, to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

Notwithstanding any provision to the contrary, neither the Municipal Bond Commission nor the Owners of the Bond for which a Credit Facility has been provided may undertake any remedies without the prior written consent of the applicable Credit Provider.

Limitation on Rights of Owners. No Owner of any Bond shall have any right to institute any suit, action, mandamus or other proceeding in equity or at law under the General Resolution, for the protection or enforcement of any right under the General Municipal Bond Commission written notice of the Event of Default or breach of duty on account of which such suit, action or proceeding is to be taken, and unless the Owners of not less than fifty percent (50%) in Principal amount of the Bonds Outstanding shall have made written request of such Commission and the Municipal Bond Commission after the right to exercise such powers or right of action, as the case may be, shall have accrued.

Right of Credit Providers. In the event that the Commission provides for the securing of payment of the Principal, Redemption Price of or interest on the Bonds of one or more Series by obtaining a Credit Facility with respect to Debt Service, the Commission by Supplemental Resolution or an Authorized Officer by contract with the Credit Provider is authorized to provide appropriate remedies for the Credit Provider upon payment of Debt Service, including, but not limited to, the right to be deemed and treated as the Owner of any

Bonds secured by such Credit Facility for all purposes of the General Resolution and for purposes of being given notices or giving directions or consents.

Supplemental Resolutions Without Owner Consent. For any one or more of the following purposes at any time or from time to time, the Commission may adopt, execute and deliver a Supplemental Resolution, without notice to or the consent of the Owners of Bonds:

(a) To close the applicable General Resolution against, or provide limitations and restrictions in addition to the limitations and restrictions contained in such General Resolution on the delivery of Bonds or the issuance of other evidences of indebtedness;

(b) To add to the covenants and agreements of the Commission in the General Resolution and other covenants and agreements to be observed by the Commission which are not contrary to or inconsistent with the General Resolution as theretofore in effect;

(c) To add to the limitations and restrictions in the General Resolution other limitations and restrictions to be observed by the Commission which are not contrary to or inconsistent with the General Resolution as theretofore in effect;

(d) To surrender any right, power or privilege reserved to or conferred upon the Commission by the terms of the General Resolution, but only if the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Commission contained in the General Resolution;

(e) To subject to the lien and pledge created or to be created by, the General Resolution any other revenues or assets other than the Revenues;

(f) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in the General Resolution;

(g) To insert such provisions clarifying matters or questions arising under the General Resolution as are necessary or desirable and are not contrary to or inconsistent with the General Resolution as theretofore in effect;

(h) To modify any of the provisions of the General Resolution in any respect whatsoever, if such modification shall

be, and be expressed to be, effective only after all Bonds Outstanding and affected thereby at the date of the adoption of such Supplemental Resolution shall cease to be Outstanding;

(i) To authorize the issuance of additional Series of Bonds and to prescribe the terms and conditions upon which such Bonds may be issued;

(j) To provide for the issuance of Bonds in such form as permitted by the General Resolution, and to make such other provisions as are necessary to provide for Bonds issued in such form;

(k) To modify, alter, amend or supplement the General Resolution in such manner as may be necessary or appropriate to qualify the General Resolution under the Trust Indenture Act of 1939 as then amended, or under any similar federal or state statute hereafter enacted;

(l) To modify, alter, amend or supplement the General Resolution in connection with the issuance of a Series of Bonds which by its terms affects only the proposed Series of Bonds and/or Bonds issued after the date of such Supplemental Resolution, which modification, alteration, amendment or supplement does not change the terms of redemption or maturity of the Principal of any Outstanding Bond or of any installment of interest thereon, or reduce the percentages or otherwise affect the classes of Outstanding Bonds, the consent of the Owners of which is required to effect modifications, alterations, amendments, or supplements to the General Resolution;

(m) To impose a book-entry system for one or more Series of Bonds;

(n) To modify, alter, amend or supplement the General Resolution in any manner which is deemed necessary in Bond Counsel's Opinion to maintain the excludability from gross income of interest on any Tax-Exempt Bonds for federal income tax purposes;

(o) To modify, alter, amend or supplement the General Resolution in any manner which, in Bond Counsel's opinion does not materially adversely affect the interests of the Owners of the applicable Bonds or any Credit Provider; or

(p) To modify, alter amend or supplement the General Resolution or any Related Supplemental Resolution in any manner which affects only a Series of Bonds which are subject to optional or mandatory tender for purchase, after giving the notice for the period set forth in the Related Supplemental Resolution, if after receipt of such notice, the Owners have the opportunity to tender their Bonds for mandatory or optional tender at the time specified in the Related Supplemental Resolution.

Supplemental Resolution With Owner Consent. (a) Any modification of or amendment to the General Resolution of the rights and obligations of the Commission and of the Owners of the Bonds thereunder other than as permitted under the foregoing section, in any particular, may be made by a Supplemental Resolution, with the written consent of the Owners of at least fifty percent (50%) in Principal amount of the Bonds Outstanding under the General Resolution at the time such consent is given, (ii) in case less than all of the several Series of Bonds Outstanding are affected by the modification or amendment, of the Owners of at least fifty percent (50%) in Principal amount of the Bonds, if any, of each Series so affected and Outstanding at the time such consent is given, and (iii) in case less than all the maturities of a Series of Bonds are affected by the modification or amendment, of the Owners of at least fifty percent (50%) in Principal amount of the Bonds of each maturity so affected and Outstanding at the time such consent is given; provided, however that to the extent any of the Bonds are secured by a Credit Facility, only the consent of the Credit Provider, and not the consent of the Owners of such Bonds, shall be required. If any such modification or amendment will not take effect until certain Bond shall no longer remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculations of Outstanding Bonds under this Section.

(b) No such modifications or amendment shall permit a change in the terms of redemption or maturity of the Principal of any Outstanding Bond or of any installment of interest thereon without the consent of the Owner of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds, the consent of the Owners of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Municipal Bond Commission of any Credit Provider without its written consent thereto. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of the General Resolution if the same adversely affects or diminishes the rights of the Owners of Bonds of such Series. The Commission may, in its sole discretion, determine whether or not Bond or any particular Series or maturity would be affected by any modification or amendment made in accordance with the foregoing powers of amendment, provided however, that it first obtain a Bond Counsel's Opinion to such effect. Any such determination shall be binding and conclusive on all Owners of Bonds.

Modifications by Unanimous Consent. The terms and provisions of the General Resolution and the rights and obligations of the Commission and of the Commission and of the Owners of the Bonds thereunder may be modified or amended in any respect upon the adoption and filing by the applicable Commission of a Supplemental Resolution and the consent of the Owners of all the Bonds Outstanding thereunder and that of any Credit Provider for such Bonds.

Immunity of Individuals. No recourse shall be had for the payment of the Principal of, Redemption Price or interest on any of the Bonds or for any claim based thereon or upon any obligations, covenant or agreement contained in the General Resolution against any past, present or future officer, member, employee or agent of the Commission, whether directly or indirectly and all such liability of any such individual as such is expressly waived and released and a condition of and in consideration for the execution of the General Resolution and the issuance of the Bonds.

## **THE BOND INDENTURE**

### **The 2003 Bonds**

Authorization of 2003 Bonds. The Bond Indenture constitutes a continuing agreement with the Holders from time to time of the 2003 Bonds and the Bond Insurer as their respective interests shall appear to secure the full payment of the principal of, and interest on all the 2003 Bonds, and the payment of all other amounts due under the Bond Indenture, subject to the covenants, provisions and conditions herein contained.

Denominations; Date; Maturity; Numbering. The 2003 Bonds shall be delivered in the form of fully registered 2003 Bonds in denominations of \$5,000 and any integral multiple thereof. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Bondholder on such Record Date and shall be paid to the person in whose name the Bond is registered at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice whereof being given by Electronic Means to the Bondholders not less 10 days prior to such special record date.

Payment of Principal of and Interest on the 2003 Bonds. The principal of the 2003 Bonds shall be payable by check in lawful money of the United States of America at the Principal Corporate Trust Office of the Trustee. Interest on the 2003 Bonds shall be paid to the Person whose name appears on the bond registration books of the Trustee as the Holder thereof as of the close of business on the Record Date for each Interest Payment Date. Payment of the interest on 2003 Bonds shall be made by check mailed by first class mail to such Holder at its address as it appears on such registration books, or, upon the written request of any Holder of at least \$1,000,000 in aggregate principal amount of 2003 Bonds, submitted to the Trustee at least one Business Day prior to the Record Date, by wire transfer in immediately available funds to an account within the United States of America designated by such Holder.

### **Issuance of the 2003 Bonds; Application of Proceeds**

The moneys from time to time on deposit in the Funds and Accounts specified in the Fourth Supplemental Resolution (except for the Rebate Fund) are subject to a lien and charge in favor of the owners of the 2003 Bonds until expended for the purposes for which such Funds and Accounts are created. A separate sub-account shall be created by the Trustee in each of the Funds and Accounts (except for the Escrow Fund, which shall be sub-divided into separate sub-

accounts for such of the Bonds To Be Refunded as are to be advance refunded and for such of the Bonds To Be Refunded as are to be currently refunded as those terms are used in the Code) for each separate series of 2003 Bonds.

The Trustee shall deposit and apply the proceeds of Bond Proceeds as directed by Sections 4.02 and 4.04 of the Fourth Supplemental Resolution.

### **Revenues; Funds and Accounts; Payment of Principal and Interest**

#### Interest Account.

(A) In accordance with the terms of the Fourth Supplemental Resolution, the Trustee shall establish, maintain and hold in trust a separate account in the Bond Fund designated as the "Interest Account." Moneys in the Interest Account shall be held, disbursed, allocated and applied by the Trustee as provided in the Resolution.

(B) The Trustee shall deposit the following Revenues in the Interest Account when and as such Revenues are received:

(1) all accrued interest, if any, received at the time of the issuance, sale and delivery of the 2003 Bonds;

(2) all interest, profits and other income received from the investment of moneys in the Interest Account; and

(3) any other Revenues not required to be deposited in any other fund or account established pursuant to the Bond Indenture.

(C) All amounts in the Interest Account shall be used and withdrawn by the Trustee, on a pro rata basis, solely for the purpose of paying the interest on the 2003 Bonds as the same becomes due and payable.

#### Principal Account.

(A) In accordance with the terms of the Fourth Supplemental Resolution, the Trustee shall establish, maintain and hold in trust a separate account in the Bond Fund designated as the "Principal Account." The Trustee shall establish, maintain and hold in trust within the Principal Account a separate Mandatory Sinking Account. Moneys in the Principal Account shall be held, disbursed, allocated and applied by the Trustee only as provided in the Bond Indenture.

(B) The Trustee shall deposit the following Revenues in the Principal Account when and as such Revenues are received:

(1) all interest, profits and other income received from the investment of moneys in the Principal Account.

(C) All amounts in the Principal Account shall be used and withdrawn by the Trustee solely to pay the 2003 Bonds at maturity, as provided in the Bond Indenture.

Proceeds Fund. In accordance with the terms of the Fourth Supplemental Resolution, the Trustee shall establish, maintain and hold in trust a separate fund designated as the "Proceeds Fund." The net proceeds of the sale of the 2003 Bonds shall initially be deposited in the Proceeds Fund.

Escrow Fund. In accordance with the terms of the Fourth Supplemental Resolution, the Trustee shall establish, maintain and hold in trust a separate fund designated as the "Escrow Fund." The balance of the proceeds of the 2003 Bonds shall be deposited in the Escrow Fund (which Fund may contain one or more subaccounts). The proceeds of the 2003 Bonds deposited in the Escrow Fund shall be disbursed immediately to the Escrow Trustee.

Cost of Issuance Fund. In accordance with the terms of the Fourth Supplemental Resolution, the Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund." The premium on the Bond Insurance Policy shall be electronically wire transferred to the Bond Insurer. The proceeds of the 2003 Bonds deposited in the Cost of Issuance Fund shall be disbursed upon requisition by an Authorized Officer. Any Funds remaining in the Cost of Issuance Fund 180 days after the initial issuance of the 2003 Bonds shall be transferred to the Interest Account.

Disbursements. The proceeds of the 2003 Bonds deposited in the Escrow Fund shall be disbursed immediately to the Escrow Trustee. The proceeds of the 2003 Bonds deposited in the Costs of Issuance Fund with the Trustee shall be disbursed to the Escrow Trustee solely to pay the Costs of Issuance of the 2003 Bonds. The funds in the Cost of Issuance Fund shall be disbursed upon requisition by an Authorized Officer. Any funds remaining in the Costs of Issuance Fund 180 days after the initial issuance of the 2003 Bonds shall be transferred to the Interest Account.

### **Particular Covenants**

Extension of Payment of 2003 Bonds. The Commission shall not directly or indirectly extend or assent to the extension of the maturity of any of the 2003 Bonds or the time of payment of any claims for interest by the purchase or funding of such 2003 Bonds or claims for interest or by any other arrangement and in case the maturity of any of the 2003 Bonds or the time of payment of any such claims for interest shall be extended, such 2003 Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of the Bond Indenture, except subject to the prior payment in full of the principal of all of the 2003 Bonds then Outstanding and of all claims for interest thereon that shall not have been so extended.

Tax Covenants. The Commission agrees that it shall at all times do and perform all acts and things required by law and to require the Commission at all times to do and perform all acts and things required by law and the Bond Indenture that are necessary or desirable in order to assure that interest paid on the 2003 Bonds will be excluded from gross income for federal income tax purposes and shall neither take action nor permit any other person to take any action that would

result in such interest not being excluded from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Commission agrees to comply with the provisions of the Tax Agreement.

## **The Trustee**

Duties, Immunities and Liabilities of Trustee. The Trustee accepts and agrees to execute the trusts imposed upon it by the Bond Indenture but only upon the terms and conditions set forth in the Bond Indenture.

(A) The Trustee shall, prior to an Event of Default, and after the curing of all Events of Default that may have occurred, perform such duties and only such duties as are specifically set forth in the Bond Indenture. The Trustee shall, during the existence of any Event of Default (that has not been cured or waived), exercise such of the rights and powers vested in it by the Bond Indenture, and use the same degree of care and skill in their exercise, as a prudent trustee would exercise or use under the circumstances in the conduct of his own affairs and the Trustee shall follow the written instructions of the Bond Insurer upon an event of default so long as the Bond Insurer is not in default under the Bond Insurance Policy.

(B) The Commission may remove the Trustee at any time unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee if at any time requested to do so by an instrument signed by the Bond Insurer or instruments in writing signed by the Holders of not less than a majority in aggregate principal amount of the 2003 Bonds then Outstanding (or their attorneys duly authorized in writing) with the written consent of the Bond Insurer or if at any time the Trustee shall cease to be eligible in accordance with subsection (E) of this Section, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, in each case by giving written notice of such removal to the Trustee, and thereupon shall appoint, with the written consent of the Bond Insurer, a successor Trustee by an instrument in writing.

(C) The Trustee may at any time resign by giving written notice of such resignation to the Commission, and by giving the Bondholders notice of such resignation by mail at the addresses shown on the bond registration books maintained by the Trustee. Upon receiving such notice of resignation, the Commission shall promptly appoint a successor Trustee by an instrument in writing. The Trustee shall not be relieved of its duties until such successor Trustee has accepted appointment.

(D) Any removal or resignation of the Trustee and appointment of a successor Trustee shall only become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Bondholder (on behalf of himself and all other Bondholders) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee

appointed under this Bond Indenture, shall signify its acceptance of such appointment by executing and delivering to the Commission and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Request of the Commission or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Bond Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Commission shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Commission shall mail a notice of the succession of such Trustee to the trusts hereunder to each Rating Agency then rating the 2003 Bonds and to the Bondholders at the addresses shown on the bond registration books maintained by the Trustee. If the Commission fails to mail such notice within 15 days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Commission.

(E) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be acceptable to the Bond Insurer and a trust company or bank having the powers of a trust company in the State of West Virginia, having (or if such trust company or bank is a member of a bank holding company system, its bank holding company has) a combined capital and surplus of at least \$50,000,000, and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (E), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

## **Modification or Amendment of the Bond Indenture**

### Amendments of Bond Indenture Permitted.

(A) The Bond Indenture may be modified or amended from time to time and at any time by an indenture or indentures supplemental hereto, which the Commission and the Trustee may enter into with the written consent of the Bond Insurer and the holders of not less than 50% of the 2003 Bonds then outstanding, provided however that to the extent any of the 2003 Bonds are secured by a credit facility, only the consent of the Credit Provider, and not the consent of the Owners of such Bonds, shall be required. No such modification or amendment shall (1) extend the maturity of any 2003 Bond, or reduce the amount of principal thereof, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the

consent of the Holder of each Bond so affected, or (2) reduce the aforesaid percentage of 2003 Bonds the consent of the Holders of which is required to effect any such modification or amendment, or permit the creation of any lien on the Revenues and other assets pledged under this Bond Indenture prior to or on a parity with the lien created by the Bond Indenture, or deprive the Holders of the 2003 Bonds of the lien created by the Bond Indenture on such Revenues and other assets (except as expressly provided in the Bond Indenture), without the consent of the Holders of all of the 2003 Bonds then Outstanding, or (3) modify any of the rights or obligations of the Trustee.

(B) The Bond Indenture may also be modified or amended from time to time and at any time by an indenture or indentures supplemental hereto, which the Commission and the Trustee may enter into with the consent of the Commission and Bond Insurer, including, without limitation, for any one or more of the following purposes:

(1) to add to the covenants and agreements of the Commission in the Bond Indenture contained other covenants and agreements thereafter to be observed, to pledge or assign additional security for the 2003 Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Commission;

(2) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision, contained in the Bond Indenture, or in regard to matters or questions arising under the Bond Indenture, as the Commission may deem necessary or desirable and not inconsistent with the Bond Indenture;

(3) to modify, amend or supplement the Bond Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or the 2003 Bonds under the Securities Act of 1933, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute;

(4) to make the 2003 Bonds eligible for deposit with any securities depository;

(5) to obtain a rating on the 2003 Bonds.

The Trustee shall give notice of any such modification or amendment to each Rating Agency then rating the 2003 Bonds provided the Trustee shall incur no liability for failure to do so.

(C) The Trustee may in its discretion, but shall not be obligated to, enter into any such Supplemental Bond Indenture authorized by subsections (A) or (B) of this Section that materially adversely affects the Trustee's own rights, duties or immunities under the Bond Indenture or otherwise.

#### **Bond Insurer Provisions**

(A) General. Notwithstanding any provision of the Indenture to the contrary, so long as the Bond Insurance Policy is in effect and the Bond Insurer is not in default of its obligations thereunder, the provisions of this Section shall apply.

(B) Bond Insurer Deemed Owner of 2003 Bonds. The Bond Insurer shall be deemed the sole Owner of the 2003 Bonds for all purposes (except the giving of a notice of default to Bondholder). Without limiting the foregoing, there shall be no acceleration of the 2003 Bonds without the prior written consent of the Bond Insurer.

(C) Prior Consent of the Bond Insurer. Any provision in the Bond Indenture which purports to require the prior consent of the Bond Insurer in order to take any action shall be subject to the Bond Insurance Policy then being in effect and the Bond Insurer not then in default of its obligations thereunder.

(D) Payments Under the Bond Insurance Policy.

(a) In the event that, on the second Business Day, and again on the Business Day, prior to any Interest Payment Date on the 2003 Bonds, the Trustee has not received sufficient moneys to pay all principal of and interest on the 2003 Bonds due on the second following or following, as the date may be, Business Day, the Trustee shall immediately notify the Bond Insurer or its designee on the same Business Day by telephone or telegraph, confirmed in writing by registered or certified mail, of the amount of the deficiency.

(b) If the deficiency is made up in whole or in part prior to or on the Interest Payment Date, the Trustee shall so notify the Bond Insurer or its designee.

(c) In addition, if the Trustee has notice that any Bondholder has been required to disgorge payments of principal or interest on the 2003 Bonds to a trustee in bankruptcy or creditors or others pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Bondholder within the meaning of any applicable bankruptcy laws, then the Trustee shall notify the Bond Insurer or its designee of such fact by telephone or telegraphic notice, confirmed in writing by registered or certified mail.

(d) The Trustee is hereby irrevocably designated, appointed, directed and authorized to act as attorney-in-fact for Holders of the 2003 Bonds as follows:

(i) If and to the extent there is a deficiency in amounts required to pay interest on the 2003 Bonds, the Trustee shall (a) execute and deliver to U.S. Bank Trust National Association, or its successors under the Policy (the "Insurance Paying Agent/Trustee"), in form satisfactory to the Insurance Paying Agent/Trustee, an instrument appointing the Bond Insurer as agent for such Holders in any legal proceeding related to the payment of such interest and an assignment to the Bond Insurer of the claims for interest to which such deficiency relates and which are paid by the Bond Insurer, (b) receive as designee of the respective Holders (and not as Trustee) in accordance with the tenor of the Policy payment from the Insurance Paying

Agent/Trustee with respect to the claims for interest so assigned, and (c) disburse the same to such respective Holders; and

(ii) If and to the extent of a deficiency in amounts required to pay principal of the Series 2003 Bonds, the Trustee shall (a) execute and deliver to the Insurance Paying Agent/Trustee in form satisfactory to the Insurance Paying Agent/Trustee an instrument appointing the Bond Insurer as agent for such Holder in any legal proceeding relating to the payment of such principal and an assignment to the Bond Insurer of any of the 2003 Bond surrendered to the Insurance Paying Agent/Trustee of so much of the principal amount thereof as has not previously been paid or for which moneys are not held by the Trustee and available for such payment (but such assignment shall be delivered only if payment from the Insurance Paying Agent/Trustee is received), (b) receive as designee of the respective Holders (and not as Trustee) in accordance with the tenor of the Policy payment therefor from the Insurance Paying Agent/Trustee, and (c) disburse the same to such Holders.

(e) Payments with respect to claims for interest on and principal of 2003 Bonds disbursed by the Trustee from proceeds of the Bond Insurance Policy shall not be considered to discharge the obligation of the Commission with respect to such 2003 Bonds, and the Bond Insurer shall become the owner of such unpaid 2003 Bond and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of this subsection or otherwise.

(f) Irrespective of whether any such assignment is executed and delivered, the Commission and the Trustee hereby agree for the benefit of the Bond Insurer that:

(i) They recognize that to the extent the Bond Insurer makes payments, directly or indirectly (as by paying through the Trustee), on account of principal of or interest on the 2003 Bonds, the Bond Insurer will be subrogated to the rights of such Holders to receive the amount of such principal and interest from the Commission, with interest thereon as provided and solely from the sources stated in this Indenture and the 2003 Bonds; and

(ii) They will accordingly pay to the Bond Insurer the amount of such principal and interest (including principal and interest recovered under subparagraph (ii) of the first paragraph of the Bond Insurance Policy, which principal and interest shall be deemed past due and not to have been paid), with interest thereon as provided in this Indenture and the 2003 Bond, but only from the sources and in the manner provided herein for the payment of principal of and interest on the 2003 Bonds to Holders, and will otherwise treat the Bond Insurer as the owner of such rights to the amount of such principal and interest.

(E) Miscellaneous.

(a) In connection with the issuance of any Additional Bonds, the Commission shall deliver to the Bond Insurer a copy of the disclosure document, if any, circulated with respect to such Additional Bonds.

(b) Copies of any amendments made to the documents executed in connection with the issuance of the 2003 Bonds which are consented to by the Bond Insurer shall be sent to S&P.

(c) The Bond Insurer shall receive notice of the resignation or removal of the Trustee and the appointment of a successor thereto.

(d) The Bond Insurer shall receive copies of all notices required to be delivered to Bondholders and, on an annual basis, copies of the Commission's audited financial statements and Annual Budget with respect to the Revenues.

(e) Any notice that is required to be given to a holder of the 2003 Bond or to the Trustee pursuant to the Bond Indenture shall also be provided to the Bond Insurer. All notices required to be given to the Bond Insurer under the Bond Indenture shall be in writing and shall be sent by registered or certified mail addressed to MBIA Insurance Corporation, 113 King Street, Armonk, New York 10504, Attention: IPM Manager-Higher Education.

(f) The Commission agrees to reimburse the Bond Insurer upon demand, to the extent permitted by law, for all reasonable expenses, including attorneys' fees and expenses, incurred by the Bond Insurer in connection with (i) the enforcement by the Bond Insurer of the Commission's obligations, or the preservation or defense of any rights of the Bond Insurer, under the Bond Indenture and any other document executed in connection with the issuance of the 2003 Bonds, and (ii) any consent, amendment, waiver or other action with respect to the bond Indenture or any related document, whether or not granted or approved, together with interest on all such expenses from and including the date incurred to the date of payment at Citibank's Prime Rate plus 3% or the maximum interest rate permitted by law, whichever is less. In addition, the Bond Insurer agrees reserves the right to charge a fee in connection with its review of any such consent, amendment or waiver, whether or not granted or approved.

(g) The Commission agrees not to use Bond Insurer's name in any public document including, without limitation, a press release or presentation, announcement or forum without Bond Insurer's prior consent. In the event that the Commission is advised by counsel that it has a legal obligation to disclose Bond Insurer's name in any press release, public announcement or other public document, the Commission shall provide Bond Insurer with at least three (3) business days' prior written notice of its intent to use Bond Insurer's name together with a copy of the proposed use of Bond Insurer's name and of any description of a transaction with Bond Insurer and shall obtain Bond Insurer's prior consent as to the form and substance of the proposed use of Bond Insurer's name and any such description.

(h) The Commission shall not enter into any agreement nor shall it consent to or participate in any arrangement pursuant to which the 2003 Bonds are tendered or

purchased for any purpose other than the legal defeasance of such 2003 Bonds without the prior written consent of Bond Insurer.

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**APPENDIX F**

**PROPOSED FORM OF OPINION OF BOND COUNSEL**

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## APPENDIX F

\_\_\_\_\_, 2003

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, West Virginia 25301

Bank One, N.A., Trustee  
707 Virginia Street  
2<sup>nd</sup> Floor  
Charleston, West Virginia 25301

MBIA Insurance Corporation  
113 King Street  
Armonk, New York 10504

\$ \_\_\_\_\_ State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities) 2003  
Series A

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the West Virginia Higher Education Policy Commission (the "Commission") of its \$ \_\_\_\_\_ aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A, dated as of August 1, 2003 (the "2003 Bonds"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion. We have also examined an unauthenticated specimen Bond.

The Commission, a commission of the State of West Virginia (the "State"), is the successor to the Board of Directors of the State College System (the "Board") and is empowered and authorized to issue bonds pursuant to Chapter 18B, Articles 1, 1B, 2, 3 and 10, Chapter 18, Article 12B and Chapter 13, Article 2G of the Code of West Virginia, 1931, as amended (collectively, the "Act"), among other things, and in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in the Act. The 2003 Bonds are issued pursuant to the Act, and other applicable laws, and pursuant to the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth

Supplemental Resolution”), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the “Sixth Supplemental Resolution”), all amending the General Resolution of the Board adopted September 9, 1992 (the “General Resolution”) (the General Resolution, as amended and supplemented to the date of this opinion, including but not limited to the amendments and supplements made by the Fourth, Fifth and Sixth Supplemental Resolutions, being collectively referred to herein as the “Resolution”), and a Bond Trust Indenture (the “Indenture”) between the Commission and Bank One, N.A., as Trustee (the “Trustee”), dated as of August 1, 2003. Proceeds of the 2003 Bonds are issued to provide moneys which, together with other moneys available to the Commission, to be used to currently refund and defease all outstanding 1992 Bonds of the Board and to pay the costs associated with the issuance of the 2003 Bonds, as set forth in the Indenture.

The Commission has also entered into a Tax Compliance Certificate, dated as of the date hereof (the “Tax Certificate”), which, among other things, sets forth restrictions on the investment and expenditure of the 2003 Bonds proceeds and earnings thereon, to ensure that the requirements of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto (collectively, the “Code”), necessary to establish and maintain the excludability from gross income for federal income tax purposes of the interest on the 2003 Bonds, are and will continue to be met.

We have not been engaged or undertaken to review the accuracy, completeness or sufficiency of the Official Statement or other offering material relating to the 2003 Bonds (except to the extent, if any, stated in the Official Statement) and we express no opinion relating thereto.

As to questions of fact material to our opinion, we have relied upon the representations of the Commission and other entities contained in the herein-described documents and certifications furnished to us by or on behalf of the Commission, without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Commission is a commission of the State with power to adopt the Resolution, to execute and deliver the Indenture and the Tax Certificate and to perform the agreements on its part contained therein and to issue the 2003 Bonds.
2. The Resolution has been duly adopted by the Commission, is in full force and effect, and is valid and binding upon the Commission and enforceable against the Commission in accordance with its terms (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors).
3. The Indenture and Tax Certificate have been duly authorized, executed and delivered by the Commission and, assuming due authorization, execution and delivery by the other parties thereto, constitute valid and binding agreements of the Commission, enforceable against the Commission in accordance with the respective terms thereof.

4. The Resolution and the Indenture each create the valid pledge which it purports to create of the Revenues (as defined in the Resolution), and other funds and accounts pledged under the Resolution and the Indenture, subject to the terms thereof.

5. The 2003 Bonds have been duly authorized, executed and delivered by the Commission and, assuming proper authentication, are valid and binding special obligations of the Commission, payable solely from the sources provided therefor in the Resolution and the Indenture.

6. In our opinion, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the 2003 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. We are of the further opinion that interest on the 2003 Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the 2003 Bonds. The Commission has covenanted to comply with certain restrictions designed to insure that interest on the 2003 Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the 2003 Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the 2003 Bonds. We assume compliance with these covenants. We have not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the 2003 Bonds may adversely affect the value of, or the tax status of interest on, the 2003 Bonds.

Certain requirements and procedures contained or referred to in the Resolution, the Indenture, the Tax Certificate, and other relevant documents may be changed and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. We express no opinion as to any Bond or the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than this firm.

7. Under the Act, the 2003 Bonds, their transfer and the income therefrom are free and exempt from taxation by the State or by any county, municipality, political subdivision or agency thereof, except for estate and inheritance taxes.

The rights of the holders of the 2003 Bonds and the enforceability of the 2003 Bonds, the Resolution, the Indenture, the Tax Certificate and the liens and pledges set forth therein may be subject to and limited by bankruptcy laws and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that

the enforcement thereof may also be subject to general principles of equity and to the exercise of judicial discretion.

Very truly yours,

Spilman Thomas & Battle, PLLC

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## APPENDIX G

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Certificate") dated as of August \_\_, 2003, from the West Virginia Higher Education Policy Commission (the "Commission") to Citigroup Global Markets Inc., Crews & Associates, Inc. and Ferris, Baker Watts, Inc., the Underwriters of the (i) \$ \_\_\_\_\_ Commission of West Virginia Revenue Refunding Bonds (State College Facilities), 2003 Series A (collectively, the "Bonds"), as initial purchasers (the "Purchasers") of the Bonds which are being issued by the Commission, is executed and delivered in connection with the issuance of the Bonds. Capitalized terms used in this Certificate shall have the respective meanings specified above or in Article IV hereof. The Commission certifies as follows:

#### ARTICLE I

##### The Undertaking

Section 1.1. Purpose. This Certificate shall constitute a written undertaking for the benefit of the holders of the Bonds, and is being executed and delivered solely to assist the Purchasers in complying with subsection (b)(5) of the Rule, as hereinafter defined.

Section 1.2. Annual Financial Information. (a) The Commission shall provide Annual Financial Information, including without limitation Audited Financial Statements, with respect to each fiscal year of the Commission, commencing with the fiscal year ending June 30, 2003, no later than 270 days after the end of the respective fiscal year, to each NRMSIR and the SID.

(b) The Commission shall provide in a timely manner, notice of any failure of the Commission to provide the Annual Financial Information by the date specified in subsection (a) above to (i) either the MSRB or each NRMSIR, and (ii) the SID.

Section 1.3. Material Event Notices. (a) If a Material Event occurs, the Commission shall provide, in a timely manner, notice of each Material Event to (i) either the MSRB or Each NRMSIR, (ii) the SID, and (iii) the Purchasers.

(b) Any such notice of a defeasance of Bonds shall Commission whether the Bonds have been escrowed to maturity or to an earlier redemption date and the date of such maturity or redemption.

Section 1.4. Additional Disclosure Obligations. The Commission acknowledges and understands that other state and federal laws, including but not limited to the Securities Act of 1933 and Rule 10b-5 promulgated under the Securities Exchange Act of 1934, may apply to the Commission and that, under some circumstances, additional disclosures or

other action in addition to those required by this Certificate may be required to enable the Commission to fully discharge all of its duties and obligations under such laws.

Section 1.5. Additional Information. Nothing in this Certificate shall be deemed to prevent the Commission from disseminating any other information, using the means of dissemination set forth in this Certificate or any other means of communication, or including any other information in any Annual Financial Information or notice of Material Event hereunder, in addition to that, which is required by this Certificate. If the Commission chooses to do so, the Commission shall have no obligation under this Certificate to update such additional information or include it in any future Annual Financial Information or notice of Material Event hereunder, in addition to that, which is required by this Certificate.

Section 1.6. No Previous Non-Compliance. The Commission represents that since July 3, 1995, it has not failed to comply in any material respect with any previous undertaking in a written contract or agreement, as entered into by the Commission, as issuer, specified in paragraph (b)(5)(i) of the Rule.

## ARTICLE II

### Operating Rules

Section 2.1. Reference to Other Documents. It shall be sufficient for purposes of this Certificate if the Commission provides Annual Financial Information by specific reference to documents (i) either (1) provided to each NRMSIR existing at the time of such reference and the SID or (2) filed with the SEC or (ii) if such document is an Official Statement, available from the MSRB.

Section 2.2 Submission of Information. Annual Financial Information may be provided in one document or multiple documents and at one time or in part from time to time.

Section 2.3 Transmission of Information and Notices. Unless otherwise required by law, the Commission shall employ such methods of information and notice transmission, as it shall so determine.

Section 2.4. Fiscal Year. The Commission's current fiscal year is the twelve-month period ending on June 30. The Commission shall promptly notify (i) each NRMSIR, (ii) the SID and (iii) the Purchasers of each change in its fiscal year.

## ARTICLE III

### Effective Date, Termination, Amendment and Enforcement

Section 3.1 Effective Date; Termination. (a) This Certificate shall be effective upon the issuance of the Bonds.

(b) The Commission's obligations under this Certificate shall terminate upon a legal defeasance, prior redemption or payment in full of all of the Bonds.

(c) This Certificate, or any provision hereof, shall be null and void in the event that the Commission (1) delivers to the Purchasers an opinion of Counsel, addressed to the Commission and the Purchasers, to the effect that those portions of the Rule which require this Certificate, or such provision, as the case may be, do not or no longer apply to the Bonds, whether because such portions of the Rule are invalid, have been repealed, or otherwise, as shall be specified in such opinion, and (2) delivers copies of such opinion to each NRMSIR and the SID.

Section 3.2. Amendment. (a) This Certificate may be amended without the consent of the holders of the Bonds, if all of the following conditions are satisfied: (1) such amendment is made in connection with a change in circumstances that arises from a change in legal (including regulatory) requirements, a change in law (including rules or regulations) or in interpretations thereof, or a change in the identity, nature or status of the Commission or the type of business conducted thereby, (2) this Certificate as so amended would have complied with the requirements of the Rule as of the date of this Certificate, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, (3) the Commission shall have delivered to the Purchasers an opinion of counsel, addressed to the Commission and the Purchasers, to the same effect as set forth in clause (2) above, (4) the Commission shall have delivered to the Purchasers an opinion of Counsel or a determination by a person, in each case unaffiliated with the Commission (such as bond counsel or the Purchasers) and acceptable to the Commission, addressed to the Commission and the Purchasers, to the effect that the amendment does not materially impair the interests of the holders of the Bonds, and (5) the Commission shall have delivered copies of such opinion(s) and amendment to each NRMSIR and the SID.

(b) This Certificate may be amended without the consent of the holders of the Bonds, if all of the following conditions are satisfied: (1) an amendment to the Rule is adopted, or a new or modified official interpretation of the Rule is issued, after the effective date of this Certificate which is applicable to this Certificate (2) the Commission shall have delivered to the Purchasers an opinion of Counsel, addressed to the Commission and the Purchasers, to the effect that performance by the Commission and Purchasers under this Certificate as so amended will not result in a violation of the Rule and that in the opinion of Counsel such change will not materially impair the owners of the Bonds and (3) the Commission shall have delivered copies of such opinion and amendment to each NRMSIR and the SID.

(c) To the extent any amendment to this Certificate results in a change in the type of financial information or operating data provided pursuant to this Certificate, the first Annual Financial Information provided thereafter shall include a narrative explanation of the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

(d) If an amendment is made pursuant to Section 3.2(a) hereof to the accounting principles to be followed by the Commission in preparing its financial statements, the Annual Financial Information for the fiscal year in which the change is made shall provide written explanation of such change or changes.

Section 3.3 ~~Benefit; Third-Party Beneficiaries; Enforcement.~~ (a) The provisions of this Certificate shall constitute a contract with and inure solely to the benefit of the holders from time to time of the Bonds, except that beneficial owners of Bonds shall be third-party beneficiaries of this Certificate and shall be deemed to be holders of Bonds for purposes of Section 3.3(b) hereof. The provisions of this Certificate shall create no rights in any person or entity except as provided in this subsection (a).

(b) The obligations of the Commission to comply with the provisions of this Certificate shall be enforceable (i) in the case of enforcement of obligations to provide Annual Financial Information and Material Event notices, by any holder of Outstanding bonds or by the Purchasers on behalf of the holders of Outstanding bonds or (ii) in the case of challenges to the adequacy of the Annual Financial Information so provided, by the Purchasers on behalf of the holders of Outstanding Bonds; provided, however, that the Purchasers shall not be required to take any enforcement action except at the direction of the holders of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding who shall have provided the Purchasers with adequate security and indemnity. The holders' and Purchasers' rights to enforce the provisions of this Certificate shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the Commission's obligations under this Certificate.

(c) Any failure by the Commission or the Purchasers to perform in accordance with this Certificate shall not constitute a default or an Event of Default under the Resolution or the Bonds, and the rights and remedies provided by the Resolution upon the occurrence of a default or an Event of Default shall not apply to any such failure.

(d) This Certificate shall be construed and interpreted in accordance with the laws of the State, and any suits and actions arising out of this Certificate shall be instituted in a court of competent jurisdiction in the Commission; provided, however, that to the extent this Certificate addresses matters of federal securities laws, including the rule, this Certificate shall be construed in accordance with such federal securities laws and official interpretations thereof.

## ARTICLE IV

### **Definitions**

Section 4.1. **Definitions.** The following items used in this Certificate shall have the following respective meanings:

(1) “Annual Financial Information” means collectively (i) the Commission’s Audited Financial Statements, and (ii) Audited Financial Statements prepared in connection with Bonds, and (iii) the information regarding amendments to this Certificate required pursuant to Sections 3.2 (c) and (d) of this Certificate. Annual Financial Information shall include Audited Financial Statements, if available, or Unaudited

(2) “Audited Financial Statements” means the annual financial statements, if any, of the Commission, audited by such auditor as shall then be required or permitted by State law. Audited Financial Statements shall be prepared in accordance with GAAP. Audited Financial Statements, for purposes of this definition, shall also be deemed to mean any special purpose financial statements, audited by such auditor as shall then be required or permitted by State law, that are prepared specifically for the Bonds, provided, that such special purpose financial statements shall be prepared in accordance with generally accepted auditing standards.

(3) “Counsel” means any nationally recognized bond counsel or counsel expert in federal securities law.

(4) “GAAP” means generally accepted accounting principles as prescribed from time to time for governmental units by the Governmental Accounting Standards Board, the Financial Accounting Standards Board, or any successor to the duties and responsibilities of either of them.

(5) “Material Event” means any of the following events with respect to the Bonds, whether relating to the Commission or otherwise, if material:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers or their failure to perform;
- (vi) adverse tax opinions or events affecting the tax-exempt status of the security;
- (vii) modifications to rights of security holders;

- (viii) bond calls;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the securities; and
- (xi) rating changes.

(6) “MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934.

(7) “NRMSIR” means, at any time, a then existing nationally recognized municipal securities information repository, as recognized from time to time by the SEC for the purposes referred to in the Rule.

(8) “Official Statement” means “final official Statement”, as defined in paragraph (f)(3) of the Rule.

(9) “Rule” means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 CFR Part 240, §240.15c2-12), as in effect on the date of this Certificate, including any official interpretations thereof issued either before or after the effective date of this Certificate which are applicable to this Certificate.

(10) “SEC” means the United Commissions Securities and Exchange Commission.

(11) “SID” means, at any time, a then-existing Commission information depository, if any, as operated or designated as such by or on behalf of the Commission for the purposes referred to in the rule. As of the date of this Certificate, there is no SID.

(12) “Unaudited Financial Statements” means the same as Audited Financial Statements, except that they shall not have been audited.

## ARTICLE V

### Miscellaneous

Section 5.1. Counterparts. This Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.2. Severability. If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof or thereof, or the Bonds, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

**IN WITNESS WHEREOF**, the Commission has caused this Certificate to be executed by its duly authorized representatives, all as of the date first above written.

**WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION**

By: \_\_\_\_\_  
Chairman







**Book-Entry Only**

*In the opinion of Spilman Thomas & Battle, PLLC ("Bond Counsel"), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the 2003 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code"). Bond Counsel is of the further opinion that interest on the 2003 Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although Bond Counsel observes that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income. Under the laws of the State of West Virginia, the 2003 Bonds shall be exempt from all state, county, and municipal taxes, and the exception shall include income, inheritance and property taxes. (See "TAX MATTERS" herein.)*

**\$22,160,000**  
**STATE OF WEST VIRGINIA**  
**HIGHER EDUCATION POLICY COMMISSION**  
**Revenue Refunding Bonds**  
**(College Facilities)**  
**2003 Series A**

**Dated: August 1, 2003**

**Due: April 1, as shown on inside cover**

Except as otherwise provided herein, the 2003 Bonds will be issued as fully registered bonds in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the 2003 Bonds. Purchases of the 2003 Bonds will be made only in book-entry form through DTC Participants in the principal amount of \$5,000 and integral multiples thereof, and no physical delivery of the 2003 Bonds will be made to purchasers. Unless otherwise indicated herein, payments of the principal, interest and premium, if any, will be made to purchasers by DTC through its participants (see "THE 2003 BONDS — Book-Entry Only System"). Interest on the 2003 Bonds will be payable on each October 1 and April 1, commencing October 1, 2003.

**The 2003 Bonds are not subject to optional redemption prior to maturity.**

The 2003 Bonds shall be on parity as to lien and source of payment with the Commission's College System Revenue Bonds (College Improvement Projects), 1997 Series A (the "1997 Bonds").

The 2003 Bonds are special, limited obligations of the Commission. Under the Act and the State Refunding Bond Act, the 2003 Bonds are revenue bonds of the Commission payable only from Revenues pledged therefor. The 2003 Bonds shall not be deemed to be obligations or debts of the State or the Commission within the meaning of any constitutional or statutory provision or limitation, and the credit or taxing power of the State shall not be deemed pledged therefor, but the 2003 Bonds shall be payable solely from the Revenues of the Commission. The Commission has no taxing power.

The payment, when due (other than by reason of acceleration), of principal of and interest on the 2003 Bonds will be insured as described herein by MBIA Insurance Corporation.



*The 2003 Bonds are offered when, as and if issued, and subject to the approving opinion of Spilman Thomas & Battle, PLLC, Charleston, West Virginia, Bond Counsel. Certain legal matters will be passed upon by Goodwin & Goodwin, LLP, counsel to the Underwriters, by Bruce R. Walker, Esquire, Charleston, West Virginia, counsel to the Commission, and by Kutak Rock LLP, Irvine, California, counsel to the Bond Insurer. It is expected that the 2003 Bonds will be available for delivery to The Depository Trust Company in New York, New York, on or about August 13, 2003.*

**CITIGROUP**

**Crews & Associates, Inc.**

**Ferris, Baker Watts, Incorporated**

July 31, 2003

**\$22,160,000**  
**STATE OF WEST VIRGINIA**  
**HIGHER EDUCATION POLICY COMMISSION**  
**Revenue Refunding Bonds**  
**(College Facilities)**  
**2003 Series A**

**MATURITIES, AMOUNTS, INTEREST RATES AND PRICES OR YIELDS**

<u>Year</u> <u>(April 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>
2004	\$3,635,000	2.000%	1.030%
2005	2,325,000	3.000	1.480
2006	2,365,000	3.000	2.020
2007	2,395,000	2.375	2.490
2008	2,415,000	5.000	2.850
2009	2,505,000	5.000	3.230
2010	2,595,000	5.000	3.560
2011	2,690,000	3.750	3.830
2012	1,235,000	4.000	4.020

(accrued interest to be added)

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL WHICH MIGHT NOT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THE BONDS HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE BONDS IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE SECURITIES LAWS OF THE STATE, IF ANY, IN WHICH THE BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN CERTAIN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF THEIR AGENCIES HAVE PASSED UPON THE MERITS OF THE BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE HIGHER EDUCATION POLICY COMMISSION AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY COMMISSION. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THE INFORMATION CONTAINED HEREIN UNDER THE HEADING "THE COMMISSION" HAS BEEN FURNISHED BY THE COMMISSION. ALL OTHER INFORMATION CONTAINED HEREIN HAS BEEN OBTAINED FROM SOURCES OTHER THAN THE COMMISSION THAT ARE BELIEVED TO BE RELIABLE. SUCH OTHER INFORMATION IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS BY, AND IS NOT TO BE RELIED UPON AS OR CONSTRUED AS A PROMISE OR REPRESENTATION BY, THE COMMISSION OR THE UNDERWRITERS. NO REPRESENTATION, WARRANTY OR GUARANTY IS MADE BY THE UNDERWRITERS AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION IN THIS OFFICIAL STATEMENT, AND NOTHING CONTAINED IN THIS OFFICIAL STATEMENT IS OR SHALL BE RELIED UPON AS A PROMISE OR REPRESENTATION BY THE UNDERWRITERS.

This Official Statement does not constitute an offer to sell the Bonds in any jurisdiction to any person to whom it is unlawful to make such offer in such jurisdiction. No dealer, salesman or other person has been authorized to give any information or to make any representation other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by the Commission or any other person. Neither the delivery of this Official Statement nor the sale of any Bonds implies that there has been no change in the matters described herein since the date hereof.

## ADDRESSES FOR PRINCIPAL PARTIES

**Commission:** Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, WV 25301  
Telephone: (304) 558-0281  
Facsimile: (304) 558-0259

**Paying Agent  
And Registrar:** Bank One, N.A.  
Global Corporate Trust Services  
707 Virginia Street  
2<sup>nd</sup> Floor  
Charleston, WV 25301  
Telephone: (304) 348-4463  
Fax: (304) 348-7978

**Bond Insurer:** MBIA Insurance Corporation  
113 King Street  
Armonk, NY 10504  
Telephone: (914) 765-3468  
Fax: (914) 765-3163

**Bond Commission** West Virginia Municipal Bond Commission  
8 Capitol Street, 5<sup>th</sup> Floor  
Charleston, West Virginia 25301  
Telephone: (304) 558-3971  
Fax: (304) 558-1280

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## SUMMARY

The following summary is furnished to provide limited introductory information about the Bonds and is qualified by reference to the more detailed descriptions appearing in this Official Statement. Capitalized terms are used as defined in this Official Statement. The offering of the Bonds is made only by means of the entire Official Statement, and no person is authorized to make offers to sell or to solicit offers to buy the Bonds unless the entire Official Statement is delivered.

<i>The Issuer</i>	West Virginia Higher Education Policy Commission
<i>The Bonds</i>	\$22,160,000 Revenue Refunding Bonds (College Facilities), 2003 Series A (the "2003 Bonds," or, the "Bonds").
<i>Ratings</i>	Moody's Investors Service: "Aaa" Standard & Poor's Corporation: "AAA"
<i>Plan of Finance</i>	The Bonds are being issued to (i) currently refund all Outstanding 1992 Bonds, and (ii) pay the costs associated with the issuance of the Bonds. The 1992 Bonds are sometimes hereinafter referred to as the "Refunded Bonds."
<i>Security and Source of Payment</i>	The Bonds are special and limited obligations of the Commission, secured ratably by a first lien on Revenues, on parity as to such lien and source of payment with the 1997 Bonds.
<i>Credit Enhancement</i>	The Commission will secure the payment, when due (other than by reason of acceleration or optional redemption, if any), of principal of and interest on the Bonds by a financial guaranty insurance policy issued by MBIA Insurance Corporation (the "Insurer").
<i>Additional Bonds</i>	Under the terms of the Resolution, the Commission may issue Additional Bonds on parity as to lien and source of payment with 2003 Bonds and the 1997 Bonds, assuming certain conditions are met. See APPENDIX E - "SUMMARY OF CERTAIN PROVISIONS OF PRINCIPAL DOCUMENTS." The Commission may also issue other obligations subordinate as to lien and source of payment with the Bonds.
<i>Rate Covenant</i>	The Commission has covenanted to fix and collect Revenues in an amount not less than 100% of the Debt Service payable on all Bonds

Outstanding during the then current Budget Period.

***Redemption of  
Bonds:***

The 2003 Bonds are not subject to optional redemption prior to maturity

***Tax Exemption***

In the opinion of Bond Counsel, under existing law, assuming continuing compliance with certain covenants and the accuracy of certain representations, interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. Bond Counsel is further of the opinion that the Bonds, together with interest thereon and income therefrom, are also exempt from all West Virginia state, county and municipal taxes, including income, inheritance and property taxes. See "TAX MATTERS" herein regarding certain other tax considerations.

## **OFFICIAL STATEMENT**

**Relating to**

**\$22,160,000**

**STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
Revenue Refunding Bonds  
(College Facilities)  
2003 Series A**

### **INTRODUCTION**

This Official Statement of the West Virginia Higher Education Policy Commission (the "Commission"), successor to the Board of Directors of the State College System (the "Board of Directors") and the University of West Virginia Board of Trustees (the "Board of Trustees"), including the cover page and appendices, is provided for the purpose of setting forth information concerning (i) the General Resolution of the Board of Directors adopted September 9, 1992 (the "General Resolution") authorizing the issuance of the State College System Revenue Refunding Bonds, Series 1992 (the "1992 Bonds") and the First Supplemental Resolution (the "First Supplemental Resolution") of the Board of Directors, adopted September 9, 1992 authorizing the issuance of the 1992 Bonds, (ii) the Second Supplemental Resolution (the "Second Supplemental Resolution") of the Board of Directors, adopted January 15, 1993, amending certain provisions of the First Supplemental Resolution, (iii) the Third Supplemental Resolution (the "Third Supplemental Resolution") of the Board of Directors, adopted October 21, 1997, pursuant to which the Board of Trustees issued its College System Revenue Bonds (College Improvement Projects), 1997 Series A (the "1997 Bonds"), (iv) the Fourth Supplemental Resolution (the "Fourth Supplemental Resolution") of the Commission, adopted March 17, 2003, pursuant to which the Commission authorized the issuance of not to exceed \$40,000,000 of its Revenue Refunding Bonds (State College Facilities) (which are the "Bonds" described herein) (v) the Fifth Supplemental Resolution (the "Fifth Supplemental Resolution," ) adopted April 24, 2003, amending certain provisions of the General Resolution, and (vi) the Sixth Supplemental Resolution (the "Sixth Supplemental Resolution," and, together with the General Resolution and all other Supplemental Resolutions, hereinafter referred to collectively as the "Resolution") of the Commission, adopted June 5, 2003, amending certain provisions of the General Resolution.

The Bonds are issued pursuant to the Act and the Refunding Act and other applicable provisions of law. The Bonds are issued and secured under the Resolution to provide moneys which, together with other moneys available to the Commission, will be applied (i) to currently refund and defease all Outstanding 1992 Bonds, and (ii) to provide for the payment of the costs of issuing the Bonds.

The Board of Directors and the Board of Trustees were previously created as the successors to the powers, duties and authorities of the West Virginia Board of Regents as such related to higher

education, and each valid agreement and obligation of the West Virginia Board of Regents related to higher education for the state college system became the agreements and obligations of the Board of Directors. The Board of Directors was responsible for the general determination, control, supervision and management of the financial, business and educational policies and affairs of the state college system (the "State College System") and the Board of Trustees was responsible for the general determination, control, supervision and management of the financial, business and educational policies and affairs of the state university system.

On March 19, 2000, the West Virginia Legislature enacted Senate Bill No. 653 ("S.B. 653"), which restructured higher education in West Virginia. S.B. 653 was effective ninety days from passage (June 18, 2000). S.B. 653 abolished the Board of Directors, effective June 30, 2000, and replaced it with a transition-year board, the West Virginia Higher Education Interim Governing Board (the "Interim Governing Board"). The Interim Governing Board was granted all powers, duties and authorities of the Board of Directors and there was transferred to the Interim Governing Board each valid agreement and obligation previously transferred or invested in the Board of Directors and the Board of Trustees. S.B. 653 also created the West Virginia Higher Education Policy Commission (the "Commission"), which is responsible for developing, gaining consensus around and overseeing the implementation of a higher education public policy agenda. The Commission is responsible for the development of public policy for higher education and other duties as specifically set forth in the legislation, including preparation of the statewide budgets for higher education. Effective July 1, 2001, certain powers transferred to the Interim Governing Board were transferred to the newly created governing boards of each of the institutions of higher education (the "Governing Boards"). Each Governing Board has the duty to manage the financial, business and education policies and affairs of a given College under specific functions and responsibilities to meet its higher education needs, the duty to prepare and submit the respective College's budget request, the duty to review at least every five years all academic programs offered at the institution, and the power to fix tuition and other fees for the different classes or categories of students enrolled at a given College, subject to approval and limited oversight by the Commission.

Pursuant to the Act, each Governing Board is empowered to fix and collect regular student fees, including registration and tuition fees, from students at the State Public Institutions of Higher Education, which formerly constituted the State College System. All registration and tuition fees collected under the Act from students at such State Institutions of Higher Education are required to be paid directly into separate funds in the State Treasury (the "State System Registration Fee Special Capital Improvements Fund" and the "State System Tuition Fee Special Capital Improvements Fund," sometimes referred to herein as the "State System Funds") and are pledged to the payment of the Bonds, all as more particularly provided for in the General Resolution and further described hereinafter. Notwithstanding the foregoing, tuition fees collected at Southern West Virginia Community College, Eastern West Virginia Community and Technical College and West Virginia Northern Community College are not required to be deposited in the State System Funds. The Commission has covenanted in the General Resolution that no other bonds or other obligations superior to or on parity with the lien of the Bonds other than with respect to a Series of Additional Bonds shall be issued and secured by the pledge of Revenues paid into the State System Funds.

Bond Insurance. The Commission will secure the payment, when due (other than by reason of acceleration or optional redemption, if any), of principal of and interest on the Bonds by a financial guaranty insurance policy issued by MBIA Insurance Corporation (the“Insurer”).

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## ESTIMATED SOURCES AND USES OF FUNDS

The following table sets forth the estimated sources and uses of funds:

### Sources

Principal amount of the Bonds	\$22,160,000.00	Net
- original issue premium	781,741.40	
Accrued Interest	26,543.54	
Funds released with respect to 1992 Bonds	<u>109,416.87</u>	
Total	\$23,077,701.81	

### Uses

Deposit to effect defeasance of the Refunded Bonds	\$22,774,575.00
Accrued Interest	26,543.54
Costs of Issuance (1)	<u>276,583.27</u>
Total	\$23,077,701.81

(1) Provision for legal, financing and consulting fees, printing costs, premium for bond insurance, underwriters' discount and other miscellaneous expenses relating to the issuance of the Bonds.

## DEBT SERVICE REQUIREMENTS

The following table sets forth, for each year as indicated, the amounts required annually for the payment of principal and interest on the 1997 Bonds and the 2003 Bonds.

Year Ending (June 30)	Principal	2003 Bonds		1997 Bonds		Total
		Interest	Debt Service	Debt Service		
2004	\$3,635,000	\$530,870.84	\$4,165,870.84	\$ 654,106.26		\$4,819,977.10
2005	2,325,000	723,606.26	3,048,606.26	655,106.26		3,703,712.52
2006	2,365,000	653,856.26	3,018,856.26	655,446.26		3,674,302.52
2007	2,395,000	582,906.26	2,977,906.26	655,106.26		3,633,012.52
2008	2,415,000	526,025.00	2,941,025.00	654,296.26		3,595,321.26
2009	2,505,000	405,275.00	2,910,275.00	657,776.26		3,568,051.26
2010	2,595,000	280,025.00	2,875,025.00	655,281.26		3,530,306.26
2011	2,690,000	150,275.00	2,840,275.00	662,031.26		3,502,306.26
2012	1,235,000	49,400.00	1,284,400.00	657,068.76		1,941,468.76
2013				656,581.26		656,581.26
2014				655,306.26		655,306.26
2015				653,650.00		653,650.00
2016				656,225.02		656,225.02
2017				657,775.02		657,775.02
2018				658,300.02		658,300.02
2019				657,800.02		657,800.02
2020				656,275.02		656,275.02
2021				653,725.02		653,725.02
2022				655,150.02		655,150.02
2023				660,293.76		660,293.76
2024				653,900.00		653,900.00
2025				656,481.26		656,481.26
2026				657,525.02		657,525.02
2027				657,031.26		657,031.26
<b>Total</b>	<b>\$22,160,000.00</b>	<b>\$3,902,239.62</b>	<b>\$26,062,239.62</b>	<b>\$15,752,237.80</b>		<b>\$ 41,814,477.42</b>

## **PLAN OF REFUNDING**

A portion of the proceeds of the Bonds will be applied to currently refund the 1992 Bonds through the acquisition of direct obligations of the United States or obligations the principal and interest of which are guaranteed by the United States, the principal of and interest on which when due will provide moneys sufficient to pay on October 1, 2003, the redemption price of the 1992 Bonds, being 102% of par plus accrued interest to the date fixed for redemption. Such obligations will be deposited with the West Virginia Municipal Bond Commission (the "Bond Commission") in trust for the payment of the redemption price of the 1992 Bonds pursuant to the terms of an Escrow Agreement dated as of August 1, 2003 among the Commission, the Bond Commission and Bank One, N.A., as paying agent for the 1992 Bonds (the "Escrow Agreement"). Upon the deposit of such obligations in trust, the 1992 Bonds under the terms of the General Resolution will be deemed paid and the covenants, agreements and other obligations of the Commission to the 1992 Bondholders under the General Resolution shall be discharged and satisfied. See "VERIFICATION OF MATHEMATICAL COMPUTATIONS".

## **THE BONDS**

### **General**

The Bonds are issuable only as fully registered bonds without coupons and, when issued, will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository of the Bonds, and all payments due with respect to the Bonds will be made to DTC or its nominee. Individual purchases will be made only in book-entry form. See "Book-Entry Only System."

The Bonds will be dated August 1, 2003 and will bear interest from such date. Ownership interests in the Bonds will be in denominations of \$5,000 or any integral multiple thereof. Interest with respect to the Bonds will be computed using a year of 360 days comprised of twelve 30-day months and is payable on October 1 and April 1 of each year, commencing October 1, 2003. The Bonds will mature on the dates and in the principal amounts, and bear interest at the rates, all as set forth on the inside cover page of this Official Statement.

### **Book-Entry Bonds**

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC's partnership nominee). One fully registered Bond certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount thereof as set forth on the inside cover page hereof.

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds securities that its participants ("Participants") deposit with DTC. DTC also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc., and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks, and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The Rules applicable to DTC and its Participants are on file with the Securities and Exchange Commission.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership of each Bond by each actual purchaser ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accompanied by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of Bonds with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to Cede & Co. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to Bonds. Under its usual procedures, DTC mails an Omnibus Proxy to the Commission as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credits on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Bonds will be made to DTC. DTC's practice is to credit Direct Participants' accounts on payable date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on payable date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC or the Commission, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the Commission, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the Commission. Under such circumstances, in the event that a successor securities depository is not obtained, Bonds will be printed and delivered.

The Commission may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bonds will be printed and delivered.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Commission believes to be reliable, but the Commission takes no responsibility for the accuracy thereof.

**Neither the Commission nor the Underwriters will have any responsibility or obligation to Participants, to Indirect Participants or to any Beneficial Owner with respect to (i) the accuracy of any records maintained by DTC, any Participant, or any Indirect Participant; (ii) the payment by DTC or any Participant or Indirect Participant of any amount with respect to the principal of, or premium, if any, or interest on, the Bonds; (iii) any notice which is permitted or required to be given by DTC to Bondholders; (iv) any consent given by DTC or other action taken by DTC as Bondholder, or (v) the selection by DTC or any Participant or Indirect Participant of any Beneficial Owners to receive payment in the event of a partial redemption of the Bonds.**

## **Redemption**

### **Optional Redemption**

**The 2003 Bonds are not subject to optional redemption prior to maturity.**

## **SECURITY FOR THE BONDS**

### **Pledge of Revenues**

The principal of, premium, if any, and interest on the Bonds are payable solely from and secured by a first lien upon and pledge of all College System Revenues, on parity with the 1997 Bonds, all of which are required by the General Resolution to be deposited in the State System Funds and the Debt Service on the 2003 Bonds is transferred semiannually to the Bond Commission and are pledged for the payment of the Bonds. "Revenues" is defined in the General Resolution to include Registration and Tuition Fees and any earnings attributable to the investment of monies, including proceeds of Bonds held in the various funds and accounts created under the General Resolution and permitted, in accordance with the General Resolution, to be credited to any such fund.

Under the Act and the State Refunding Bond Act, the Bonds are revenue bonds of the State payable only from Revenues pledged therefor. The Bonds shall not be deemed to be obligations or debts of the State within the meaning of any constitutional or statutory provision or limitation, and the credit or taxing power of the State shall not be deemed pledged therefor, but the 2003 Bonds shall be payable solely from the Revenues.

### **Flow of Funds**

Under the Act there have been created capital improvement funds in the State Treasury for each West Virginia Institution of Higher Education (each an "Institution"). Under the General Resolution, the Commission has created and established certain funds including a Bond Fund for each Series of Bonds to be held by the Municipal Bond Commission or a corporate trustee. All Revenues, including registration and tuition fees, shall be deposited in the respective capital improvement funds. Pursuant to the Sixth Supplemental Resolution and a Memorandum of Understanding (the "MOU") between the Commission and the Treasurer of the State of West Virginia, the Treasurer has agreed to prohibit any withdrawals from the capital improvement fund held by the Treasurer on behalf of each Institution on and after each September 1 and February 1, beginning September 1, 2003, until the balance of such fund is equal to one-half of the debt service on the Bonds for the twelve-month period beginning on September 1 of each year allocable to such Institution and the MOU provides further that the Treasurer will only release funds for each Institution's use in excess of the amount necessary for such Institution's allocable portion of debt service. The Commission shall, on or prior to September 1 of each year, furnish to the Treasurer the allocable amount payable by each Institution. See, "APPENDIX E- SUMMARY OF CERTAIN PROVISIONS OF THE GENERAL RESOLUTION."

## **Rate Covenant**

The Commission has covenanted to fix and collect registration and tuition fees at Colleges at the rates now or hereafter provided in or authorized by the Act to the full extent necessary so as to provide registration and tuition fees constituting Revenues in each Fiscal Year in which Bonds are Outstanding in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period.

## **Additional Bonds**

The Commission has covenanted, other than with respect to a Series of Additional Bonds, not to issue any other obligations payable from the Revenues having priority to or being on a parity with the lien of the Bonds issued from time to time pursuant to the General Resolution.

Such Additional Bonds may be issued in one or more Series under the General Resolution only upon certification by an Authorized Representative that (i) all payments into the respective funds and accounts provided for in such General Resolution and any Related Supplemental Resolution respecting Bonds theretofore issued and then Outstanding shall have been made in full to the date of issuance and delivery of such Additional Bonds and no Event of Default thereunder shall then be existing; and (ii) Revenues collected by the Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds shall have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); or (iii) (a) all Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Commission for the last Fiscal Year preceding the date of issuance of such Additional Bonds, plus Projected Revenues (as defined below) shall have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); and (b) Projected Revenues shall not have been greater than 20% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or which were not pledged under this Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of such Additional Bonds.

## **BOND INSURANCE**

The following information has been furnished by MBIA Insurance Corporation ("MBIA" or the "Insurer") for use in this Official Statement. Reference is made to Appendix D for a specimen of MBIA's policy.

### **The MBIA Insurance Corporation Insurance Policy**

MBIA's policy unconditionally and irrevocably guarantees the full and complete payment required to be made by or on behalf of the Issuer to the Paying Agent or its successor of an amount equal to (i) the principal of (either at the stated maturity or by an advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Bonds as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed by MBIA's policy shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner of the Bonds pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law (a "Preference").

MBIA's policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Bond. MBIA's policy does not, under any circumstance, insure against loss relating to: (i) optional or mandatory redemptions (other than mandatory sinking fund redemptions); (ii) any payments to be made on an accelerated basis; (iii) payments of the purchase price of Bonds upon tender by an owner thereof; or (iv) any Preference relating to (i) through (iii) above. MBIA's policy also does not insure against nonpayment of principal of or interest on the Bonds resulting from the insolvency, negligence or any other act or omission of the Paying Agent or any other paying agent for the Bonds.

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by MBIA from the Paying Agent or any owner of a Bond the payment of an insured amount for which is then due, that such required payment has not been made, MBIA on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such insured amounts which are then due. Upon presentment and surrender of such Bonds or presentment of such other proof of ownership of the Bonds, together with any appropriate instruments of assignment to evidence the assignment of the insured amounts due on the Bonds as are paid by MBIA, and appropriate instruments to effect the appointment of MBIA as agent for such owners of the Bonds in any legal proceeding related to payment of insured amounts on the Bonds, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners or the Paying

Agent payment of the insured amounts due on such Bonds, less any amount held by the Paying Agent for the payment of such insured amounts and legally available therefor.

## **MBIA**

MBIA Insurance Corporation (“MBIA”) is the principal operating subsidiary of MBIA Inc., a New York Stock Exchange listed company (the “Company”). The Company is not obligated to pay the debts of or claims against MBIA. MBIA is domiciled in the State of New York and licensed to do business in and subject to regulation under the laws of all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States and the Territory of Guam. MBIA has three branches, one in the Republic of France, one in the Republic of Singapore and one in the Kingdom of Spain. New York has laws prescribing minimum capital requirements, limiting classes and concentrations of investments and requiring the approval of policy rates and forms. State laws also regulate the amount of both the aggregate and individual risks that may be insured, the payment of dividends by MBIA, changes in control and transactions among affiliates. Additionally, MBIA is required to maintain contingency reserves on its liabilities in certain amounts and for certain periods of time.

MBIA does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the policy and MBIA set forth under the heading “BOND INSURANCE”. Additionally, MBIA makes no representation regarding the Bonds or the advisability of investing in the Bonds.

The Financial Guarantee Insurance Policies are not covered by the Property/Casualty Insurance Security Fund specified in Article 76 of the New York Insurance Law.

## **MBIA Information**

The following documents filed by the Company with the Securities and Exchange Commission (the “SEC”) are incorporated herein by reference:

- (1) The Company’s Annual Report on Form 10-K for the year ended December 31, 2002; and
- (2) The Company’s Quarterly Report on Form 10-Q for the quarter ended March 31, 2003.

Any documents filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act of 1934, as amended, after the date of this Official Statement and prior to the termination of the offering of the Bonds offered hereby shall be deemed to be incorporated by reference in this Official Statement and to be a part hereof. Any statement contained in a document incorporated or deemed to be incorporated by reference herein, or contained in this Official Statement, shall be deemed to be modified or superseded for purposes of this Official Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or

supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of Official Statement.

The Company files annual, quarterly and special reports, information statements and other information with the SEC under File No. 1-9583. Copies of the SEC filings (including (1) the Company's Annual Report on Form 10-K for the year ended December 31, 2002, and (2) the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2003, are available (i) over the Internet at the SEC's web site at <http://www.sec.gov>; (ii) at the SEC's public reference room in Washington D.C.; (iii) over the Internet at the Company's web site at <http://www.mbia.com>; and (iv) at no cost, upon request to MBIA Insurance Corporation, 113 King Street, Armonk, New York 10504. The telephone number of MBIA is (914) 273-4545.

As of December 31, 2002, MBIA had admitted assets of \$9.2 billion (audited), total liabilities of \$6.0 billion (audited), and total capital and surplus of \$3.2 billion (audited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities. As of March 31, 2003 MBIA had admitted assets of \$9.3 billion (unaudited), total liabilities of \$6.1 billion (unaudited), and total capital and surplus of \$3.2 billion (unaudited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities.

#### **Financial Strength Ratings of MBIA**

Moody's Investors Service, Inc. rates the financial strength of MBIA "Aaa."

Standard & Poor's, a division of The McGraw-Hill Companies, Inc. rates the financial strength of MBIA "AAA."

Fitch Ratings rates the financial strength of MBIA "AAA."

Each rating of MBIA should be evaluated independently. The ratings reflect the respective rating agency's current assessment of the creditworthiness of MBIA and its ability to pay claims on its policies of insurance. Any further explanation as to the significance of the above ratings may be obtained only from the applicable rating agency.

The above ratings are not recommendations to buy, sell or hold the Bonds, and such ratings may be subject to revision or withdrawal at any time by the rating agencies. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of the Bonds. MBIA does not guaranty the market price of the Bonds nor does it guaranty that the ratings on the Bonds will not be revised or withdrawn.

## **REGISTRATION, TUITION AND OTHER STUDENT FEES**

Regular student fees at West Virginia public colleges and universities, although commonly referred to as "tuition," are actually comprised of six distinct components -- tuition fees, registration fees, higher education resource fees, faculty improvement fees, college fees and program specific fees. Of these components, only registration fees and tuition fees are a part of the Revenues and are pledged for the payment of debt service on the Bonds. Notwithstanding the foregoing, tuition fees collected at Southern West Virginia Community College, Eastern West Virginia Community and Technical College and West Virginia Northern Community College do not constitute Revenues and are therefore not pledged for the payment of Debt Service on the Bonds. Higher education resource fees, faculty improvement fees, college fees and program specific fees are not so pledged and are not included in Revenues. Funds generated by these fees are used in different ways and applied for various other purposes.

Appendix C of this Official Statement summarizes regular student fees for the academic year 2002-03.

### **Registration and Tuition Fees**

The registration fees and tuition fees are imposed and collected by each Board of Governors pursuant to the Act from students enrolled at all State Institutions of Higher Education. Full-time students enrolled at each State Institution of Higher Education are required by the Act to pay a registration fee and a tuition fee as indicated in Appendix C. For all part-time students and for all summer students, a prorated fee, calculated in direct proportion to the number of credit hours taken is imposed. For fee purposes a full-time undergraduate student is enrolled for 12 or more credit hours, and a full-time graduate student is enrolled for 9 or more credit hours. Each Board of Governors may increase the Registration Fee and Tuition Fee rates now or hereafter in effect pursuant to the Act, subject to the approval of the Commission.

The Commission has covenanted to diligently enforce and collect the registration fees and tuition fees in effect from all students enrolled for credit at any of the State Institutions of Higher Education. Each Board of Governors may, pursuant to the Act, waive fees for certain students or classes of students, or may establish preferential fee rates for certain students or classes of students, provided, however, that such waivers or preferential fee rates shall not cause the Revenues to be reduced below a level equal to 1.00 times the aggregate principal and interest due on the Bonds in the ensuing fiscal year.

The audited financial statements of the Registration and Tuition Fee Bond Funds for the Fiscal Year ended June 30, 2002 are set forth in Appendix B.

(vi) To the applicable Bond Fund, the amount designated by the Commission for the optional or mandatory redemption of the related Series of Bonds (other than Sinking Fund Payments).

(b) In the event the Revenues are insufficient during any semiannual or other period to make all of the deposits required by the foregoing for all Bonds issued under the General Resolution, the Commission shall make payments pro-rata, in accordance with the respective Debt Service Requirements for each Series of Bonds issued under the General Resolution.

(c) As indicated above (see "Collection and Transfer of Revenues" herein), notwithstanding any other provisions in the General Resolution to the contrary, the collection and transfer of the Revenues shall be governed as follows: Beginning on September 1, 2003, and on each February 1 and September 1 thereafter the Treasurer shall prohibit any withdrawals from the capital improvement funds held by the Treasurer on behalf of each College until the amounts on deposit in such funds equal one-half of the Semi-Annual Debt Service Requirement for the 12-month Annual Payment Period beginning on September 1 of each year allocable to such College and will release funds for such College's use in excess of the College's allocable share of the Semi-Annual Debt Service Requirement. Such ability of the Treasurer to release funds for each College's use in excess of the College's respective allocable share of the Semi-Annual Debt Service Requirement in effect amends subsections (a)(iii), (a)(iv) and (a)(vi) above.

Costs of Issuance Funds. The Commission shall deposit into the Costs of Issuance Fund relating to a Series of Bonds the amount required to be deposited therein in the Related Supplemental Resolution. The State Treasury is authorized by the General Resolution to make disbursements from a Costs of Issuance Fund upon receipt of a Requisition signed by an Authorized Officer of the Commission.

Creation of Additional Funds, Accounts and Subaccounts. The Municipal Bond Commission shall, at the written request of the Commission, establish such additional funds, accounts and subaccounts within or in addition to any of the funds established under the General Resolution as shall be specified in such written request, for the purpose of identifying more precisely the sources of payments into and disbursements from such funds, accounts and subaccounts; but the establishment of any such additional funds, accounts or subaccounts shall not alter or modify any of the requirements of the General Resolution with respect to the deposit or use of moneys in any fund, account or subaccount established.

Investment of Certain Funds. Any fund or account held by the Commission or on behalf of the Commission by the Municipal Bond Commission or the State Treasury, may be invested or reinvested or deposited in Permitted Investments having yields and maturities as determined by an Authorized Officer. Subject to the right of an Authorized Officer to direct the investment or deposit of funds under the General Resolution, moneys in any fund or account established by the General Resolution and held by the Municipal Bond Commission or the State

## THE COMMISSION

The Commission is responsible for developing, gaining consensus around and overseeing the implementation of a higher education public policy agenda. The Commission is responsible for the development of public policy for higher education and other duties as specifically set forth in the Act, including preparation of the statewide budgets for higher education. Additional powers and duties include, but are not limited to, the duty to develop a master plan for each institution, the power to approve Tuition, Registration and other fees of the institutions and the power to prescribe the specific functions and institution's budget request. The Commission has the authority to assess each State Institution of Higher Education for payment of debt service of the Bonds. The Commission is comprised of nine members, all of whom are entitled to vote. One is the Secretary of Education and the Arts, ex officio. One is the State Superintendent of Schools. The other seven members shall be citizens of the State, appointed by the Governor, with the advice and consent of the Senate. The terms of the members appointed by the Governor shall be for overlapping terms of four (4) years, except, of the original appointments, one shall be appointed for a term of one (1) year, two shall be appointed for a term of two (2) years, two shall be appointed for a term of three (3) years and two shall be appointed for a term of four (4) years. The Governor shall appoint a member to fill any vacancy among the seven members of the Commission appointed by the Governor, which member appointed to fill such vacancy shall serve for the unexpired term of the vacating member. The Governor shall fill the vacancy within thirty days of the occurrence of the vacancy. The current members of the Commission are as follows:

### Members

#### **J. Thomas Jones** Chairman

J. Thomas Jones, of Morgantown, is Chief Executive Officer of West Virginia United Health System. Previously, he served as Chief Executive Officer of the Genesis Hospital System, Executive Director/Chief Executive Officer of St. Mary's Hospital, and served with Wheeling Hospital and West Virginia University Hospital. Mr. Jones is active in civic affairs, having chaired the Huntington Area Chamber of Commerce Board of Directors and the Huntington Area Development Council. He is Chair of the West Virginia Roundtable and sits on the Board of Directors of the West Virginia State Chamber of Commerce. He serves on numerous boards and commissions and served on the University System of West Virginia Board of Trustees. Mr. Jones holds a bachelor's degree from West Virginia University and a master's degree from the University of Minnesota.

#### **Mary Clare Eros, Esq.** Vice Chairman

Mary Clare Eros, of Shepherdstown, has been a member of the law firm of Jackson Kelly PLLC since 1981. She serves as the Managing Member of the Martinsburg office where her practice areas include banking, corporate, bankruptcy, government contracts, bonds and

financing, leases, business and commercial, legislative services, contracts, real estate and property law, and intellectual property and trademarks. Ms. Eros previously served as a summer intern for the U.S. Department of Justice in Elkins, a faculty research assistant at West Virginia University Law Center and Georgetown University Law Center, and co-director of the International Language Institute at Davis & Elkins College. She holds a B.A. in English Literature from St. Louis University, attended West Virginia University law school and earned a J.D. from Georgetown University Law Center. She previously served on the Shepherd College Board of Advisors.

### **Richard Ken Hall**

Ken Hall, of Yawkey, is a twenty-six year member of the Teamsters Union, Local 175 in Charleston, where he has served as president of the 3500-member union since 1991. He also is employed by the Teamsters International Union as Director of the Union's Parcel and Small Package Division, with the responsibility of negotiating and administering the union's largest contract covering 220,000 UPS employees. In addition, he serves as an officer in the Kentucky-West Virginia State Conference of Teamsters, a trustee for the Teamsters health, welfare and pension funds in West Virginia, and a trustee for the Teamsters national 401K plan for employees.

### **Elliot G. Hicks, Esq.** Secretary

Elliot G. Hicks, of Charleston, is the resident partner in the Charleston, West Virginia office of the Atlanta, Georgia-based law firm Hawkins & Parnell, LLP. He has practiced law for more than twenty-one years in Charleston. Mr. Hicks concentrates his practice in litigation, with a particular emphasis on products liability, premises liability, corporate and commercial litigation, insurance defense and mediation and arbitration. He attended Washington and Lee University, and holds a B.A. and a J.D. from West Virginia University. He is very active in civic affairs, and served as President of the West Virginia State Bar from 1998 to 1999.

### **Kay H. Goodwin**

Kay Huffman Goodwin, of Ripley, serves as West Virginia Secretary of Education and the Arts. She is responsible for six government agencies in her role as Secretary. Previously, she served as chair of the University System of West Virginia Board of Trustees. She is a former member of the state Educational Broadcasting Authority, and former instructor at West Virginia University, West Virginia State College, and the Department of Defense Information School. Secretary Goodwin is a former member of the Board of Directors of West Virginia University Hospitals and the United Health System, and a member of the Board of Directors of the Clay Center for the Arts and Sciences. She earned a B.A. and an M.A. from West Virginia University.

**John R. Hoblitzell, Esq.**

John R. Hoblitzell, of Charleston, is a member of the law firm of Kay Casto & Chaney PLLC where he has engaged in the practice of law since 1973. He has been an active participant in governmental affairs in West Virginia since 1969 when he was appointed as the first student member of the West Virginia Board of Regents. Mr. Hoblitzell served as a member of the West Virginia House of Delegates from Kanawha County from 1985 to 1987. While a member of the House of Delegates, he served on the House Education Committee and held the position of minority chair in the House Judiciary Committee. He is a past president of the Executive Council of the West Virginia University Alumni Association and was a member of the University System of West Virginia Board of Trustees from 1989 to 2000. Mr. Hoblitzell chaired both the Finance and Academic Program committees of the Board of Trustees and also served a two-year term as chair of the Board of Trustees. He is a graduate of West Virginia University with a bachelor's degree in Economics and the West Virginia University College of Law.

**Terry R. Sammons, Esq.**

Terry R. Sammons, of Gilbert, is proprietor of the Sammons Law Offices PLLC. Prior to that, he formed several companies: Gilbert Coal Testing Inc., Appalachian States Analytical LLC, Appalachian Network Communications Inc., Corridor G Development Inc., Langdell Inc., Foxfire Consultants Inc., Foxfire Environmental Inc., and Southern Coal Field Mine Rescue. Additionally, Mr. Sammons served as an adjunct professor at Marshall University Graduate College and assistant professor at Southern West Virginia Community and Technical College. He earned a bachelor's degree in mathematics from Berea College, an M.S. in environmental science from West Virginia Graduate College and a J.D. from Harvard Law School. He holds a teaching certificate from Marshall University.

**David L. Stewart**

David Stewart, of Charleston, was named West Virginia Superintendent of Schools in March 2000. Prior to assuming the position, he served as assistant superintendent in charge of administrative services and worked as an assistant division chief at the department of education. Dr. Stewart began his career as an elementary teacher and later worked as an elementary school principal. He served in both West Virginia and Delaware in the areas of purchasing, finance, business, accounting, and as treasurer. Additionally, he served as superintendent and assistant superintendent of a county school system. Dr. Stewart holds a bachelor's degree from Anderson College, and a master's and doctorate from West Virginia University.

**Shawn R. Williams**

Shawn R. Williams, of Clarksburg, serves on the West Virginia Faculty Merit Foundation Board of Directors, and the boards of the Harrison County YMCA, the Clarksburg-Harrison County Friends of the Library, and The Waldomore Association. She served on the West Virginia Ethics Commission and the West Virginia Educational Broadcasting Authority Board of Directors. Ms. Williams was an initial member of the State College System of West Virginia

Board of Directors and served as vice chair and secretary. She attended the College of the Holy Cross and holds a bachelor's degree from the College of William and Mary.

### **Administration**

In order to assist the Commission with carrying out its directives, duties and responsibilities, a system Chancellor is employed by the Commission. The Chancellor works with the Commission to evaluate policy options and develop policy. The Chancellor serves as the chief executive officer.

The offices of the Chancellor and other Commission staff are located in Charleston, West Virginia.

Following are the biographies of the administrative staff of the Commission:

#### **J. Michael Mullen, Chancellor of Higher Education for West Virginia**

J. Michael Mullen was appointed chancellor of higher education for West Virginia in February 2001. Prior to his appointment, Mullen served as vice president for administration at Northern Arizona University for two years. Previously, he served on the staff of the Council of Higher Education for Virginia for 24 years in the positions of associate/assistant director, deputy director and interim director. He also served as division chairman; director of institutional research; and associate professor of business at Northern Virginia Community College. He was an instructor of economics at Shepherd College for one year. Mullen holds a B.S. in psychology from George Washington University, an M.B.A. from West Virginia University, and a Ph.D. in higher education from the University of Virginia.

#### **Thomas E. Blevins, Special Assistant to the Chancellor for Technology**

A native West Virginian, Thomas E. Blevins holds a B.S. degree in secondary education from Bluefield State College, an M.A. degree in English from Marshall University, a certificate of advanced graduate studies and a doctor of education degree in instructional technology and community college education from Virginia Tech University. He serves the higher education office as special assistant to the chancellor for technology, and is chief technology officer, and professor of education and English at Bluefield State College. Dr. Blevins has served at Bluefield State College in various positions since 1977. He has had six years of experience as a public school teacher and administrator with the McDowell County Public Schools, and holds a permanent West Virginia teaching certificate.

#### **Daniel E. Crockett, Director of Student and Educational Services**

Daniel E. Crockett was appointed director of student and educational services in 2000. Prior to that, he served as assistant director of student and educational services for nine years, assistant director for educational support with the talent identification program at Duke University for one year, coordinator of outreach services for the West Virginia Board of Regents

for sixteen years, educational development specialist for Appalachia Educational Laboratory, Inc. for one year, and talent search counselor for the Board of Regents for two years. Mr. Crockett earned a Bachelor of Arts degree at Marshall University and a Master of Arts degree from the West Virginia College of Graduate Studies.

**Bruce C. Flack, Director of Academic Affairs/Interim Vice-Chancellor for State Colleges**

Bruce C. Flack has served as director of academic affairs for higher education since 1989. He previously served as vice president for academic affairs at Glenville State College and as director of continuing education at the Satellite Network of West Virginia. Dr. Flack was professor of history at Glenville State College for nineteen years. He holds the A.B. degree from Otterbein College, with majors in French and English, and the M.A. and Ph.D. degrees in history from the Ohio State University. He has completed postdoctoral studies at the University of Minnesota. Dr. Flack also served as interim president of Glenville State College for the 1998-99 academic year.

**James A. Winter, Director of Finance and Facilities**

James A. Winter was appointed director of finance and facilities in May 2001. For twenty-five years, he was employed in the banking industry by One Valley Bancorp and One Valley Bank, N.A. in the roles of senior vice president, chief financial officer, controller, and credit officer. He earned a bachelor's degree in accounting from West Virginia University and a masters in business administration from the West Virginia College of Graduate Studies. He is a Certified Public Accountant and a member of the AICPA.

**James L. Skidmore, Vice Chancellor for Community and Technical College Education**

James L. Skidmore has served as vice chancellor for community and technical college education since August 1998. He was the interim vice chancellor for the three years previous to that appointment. A West Virginia native, Mr. Skidmore has served in higher education in West Virginia for more than fifteen years at the higher education office and campus levels. He has held positions as an education awareness counselor for the West Virginia Board of Regents, director of Upward Bound at West Virginia Institute of Technology, and assistant director of admissions at West Virginia State College. He holds degrees from Glenville State College and the West Virginia College of Graduate Studies.

**Bruce Ray Walker, General Counsel**

Bruce Ray Walker has served as general counsel for higher education since 1991. Prior to that time he spent eight years with the West Virginia Attorney General's Office as an assistant and later deputy attorney general. He received a B.A. degree from Michigan State University and a J.D. from Washington and Lee University College of Law. As general counsel, Mr. Walker is responsible for legal advice to the higher education governing boards, the higher education office and to the public institutions of higher education.

## **CAPITAL BUDGETING AND PLANNING**

West Virginia funds the capital needs of its colleges and universities almost entirely through the use of student fees, namely tuition and registration fees, rather than with general tax appropriations. Funding through this means has contributed to meeting facility needs that might not otherwise have been possible when relying solely on State funds.

Among the duties of the newly authorized Commission is the development of a budget for the State system of higher education. The budget request shall include the institutional operating budgets for all State institutions of higher education. In addition to the institutional operating budget and incentive funding, the Commission is responsible for allocating the funds appropriated to it among the institutions based on institutional progress and other standards.

## **STATE APPROPRIATIONS FOR HIGHER EDUCATION**

The State has a policy of utilizing its general fund revenues to meet the major portion of the educational and general operating expenses of its State institutions of higher education. For the combined West Virginia Public Higher Education System in the fiscal year ended June 30, 2002, state appropriations of \$431.6 million represented almost 42% of total revenues of \$1,052 million with the balance coming from grants and contracts (21%) student fees (19%), auxiliary revenues (10%) and other income (8%).

## **STUDENT ENROLLMENT**

Data reported herein relate to recent enrollment at Commission institutions. Enrollment data are generally collected and reported in two categories -- head-count and full-time equivalent (FTE). Whereas head-count enrollment is an indicator of the total number of individual students attending at a given time, FTE enrollment converts each individual student's credit hour load into a standard measure of effort, depending upon the student's enrollment category. For example, an undergraduate student enrolling for fifteen credit hours in a given semester would be counted as one head-count and one FTE student. An undergraduate student taking three credit hours as a part-time student would be counted as one head-count student, but only as .20 FTE because he/she is taking only one-fifth of what might be considered as the normal undergraduate load. Although each of these indicators is useful in terms of describing enrollment, FTE enrollment would normally be the more relevant measure in analyzing historic and projected fee revenues since it more closely approximates the relationship between students and charges assessed to them.

As is the case in other states, student enrollment in West Virginia is influenced by a number of factors, not all of which are readily controllable or entirely possible to predict. Economic and demographic considerations such as birth rate, number of high school graduates, migration patterns, education attainment level of parents and/or other family members, and college-going rate for both traditional and non-traditional students residing in the State often influence college attendance. Other factors such as student retention rates, student fee levels,

and the amount and configuration of student financial assistance appear to influence enrollment levels.

The percentage of West Virginia's high school graduates who enroll in college within a year of graduation from high school has steadily increased over the past five years. This increasing percentage has moderated the effects of several years of smaller high school graduating classes. The potential exists for further growth in the rate of college participation by West Virginians before the market is saturated. In addition to the possibility of increasing the college-going rate of recent high school graduates, substantial numbers of non-traditional students are returning to higher education for additional degrees or professional certifications. This trend is expected to continue. West Virginia institutions also continue to attract students from surrounding states, which are projecting increasing numbers of high school graduates in the coming years. Thus, enrollment projections are relatively stable.

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**Institutions of the Former  
State College System  
Headcount Student Enrollment**

<u>Fall Semester</u>	<u>Resident</u>	<u>Non-Resident</u>	<u>Total</u>	<u>Fall Semester</u>	<u>Resident</u>	<u>Non-Resident</u>	<u>Total</u>
1998 Actual	28,719	4,593	33,312	2003 Projected	30,741	4,866	35,607
1999 Actual	29,048	4,834	33,882	2004 Projected	30,820	4,866	35,686
2000 Actual	28,758	5,003	33,761	2005 Projected	30,907	4,866	35,773
2001 Actual	29,935	4,685	34,620	2006 Projected	31,001	4,866	35,867
2002 Actual	30,669	4,866	35,535	2007 Projected	31,103	4,866	35,969

**Institutions of the Former  
State College System  
Full-Time Equivalent Enrollment**

<u>Fall Semester</u>	<u>Resident</u>	<u>Non-Resident</u>	<u>Total</u>	<u>Fall Semester</u>	<u>Resident</u>	<u>Non-Resident</u>	<u>Total</u>
1998 Actual	21,794	4,050	25,844	2003 Projected	23,393	4,361	27,754
1999 Actual	22,031	4,176	26,207	2004 Projected	23,448	4,361	27,809
2000 Actual	21,980	4,282	26,262	2005 Projected	23,507	4,361	27,868
2001 Actual	22,649	4,174	26,823	2006 Projected	23,571	4,361	27,932
2002 Actual	23,342	4,361	27,703	2007 Projected	23,640	4,361	28,001

The following tables set forth certain historical financial information relating to the former College System Institutions. The information for the Fiscal Year ending June 30, 2002 is separately presented due to accounting changes resulting from the adoption by the Commission of Government Accounting Standards Board Statement No. 35.

**West Virginia Higher Education Policy Commission**

**Former State College System  
STATEMENTS OF CURRENT FUNDS REVENUES,  
EXPENDITURES, TRANSFERS AND OTHER CHANGES  
Five-Year Comparison  
(Dollars in Thousands)**

	1997	1998	1999	2000	2001
<b>REVENUES:</b>					
Tuition and fees	\$52,608	\$56,128	\$57,848	\$62,808	\$63,882
Government appropriations:					
State	77,661	80,837	85,442	86,590	96,910
Federal	0	0	0	0	0
Local	0	0	0	0	0
Government contracts and grants	58,326	66,784	72,265	80,458	94,517
Private gifts, grants and contracts	2,634	3,107	3,140	3,410	3,737
Income from investments	1,532	1,701	1,838	1,792	2,977
Sales and services of auxiliary enterprises	27,217	29,044	29,464	30,881	33,710
Sales and services of educational activities	1,063	1,137	1,130	1,313	1,216
Other sources	4,566	3,752	5,255	6,837	7,221
<b>TOTAL REVENUES</b>	<b>\$225,607</b>	<b>\$242,490</b>	<b>\$256,382</b>	<b>\$274,089</b>	<b>\$304,170</b>
<b>EXPENDITURES, TRANSFERS AND OTHER CHANGES:</b>					
Educational and general:					
Instruction	\$65,204	\$68,335	\$69,952	\$74,474	\$79,470
Research	219	254	1,899	677	2,040
Public service	2,340	1,861	2,367	4,272	7,975
Academic support	13,130	14,108	15,925	17,146	17,568
Student services	15,768	14,795	15,768	17,280	17,919
Operation and maintenance of plant	14,647	15,345	14,798	16,516	19,048
General institutional support	20,721	20,821	21,395	24,084	27,876
Scholarships and fellowships	53,290	60,434	64,794	70,931	78,041
Total educational and general expenditures	\$185,319	\$195,953	\$206,898	\$225,380	\$249,937
Transfers and other deductions (additions)	10,781	9,841	14,050	15,297	13,250
Auxiliary enterprises	32,178	34,043	35,697	38,695	39,840
<b>TOTAL EXPENDITURES, TRANSFERS AND OTHER CHANGES</b>	<b>228,278</b>	<b>239,837</b>	<b>256,645</b>	<b>279,372</b>	<b>303,027</b>
OTHER RESTRICTED RECEIPTS - Less recognized revenues	-292	1,413	1,897	1,145	146
<b>NET INCREASE (DECREASE) IN FUND BALANCE</b>	<b>-\$2,963</b>	<b>\$4,066</b>	<b>\$1,634</b>	<b>-\$4,138</b>	<b>\$1,289</b>

Notes:

- 1) The last State College System consolidated audit summary was produced for FY 2000. The data shown for FY 2001 is a summary of the individual audits for the institutions that were members of the former State College System.
- 2) West Virginia University Institute of Technology was a member of the former State College System until July 1, 1996 at which point it moved to the former University System. For comparison purposes, WVUIT is classified in the University System for all periods presented.

**West Virginia Higher Education Policy Commission**  
**Former State College System**  
 Combined Statements of Revenues, Expenses and Changes in Net Assets  
 Year Ended June 30, 2002

	<u>Totals of Former State College System Institutions</u>
<b>OPERATING REVENUES:</b>	
Student tuition and fees (net of scholarship allowance \$24,233,619)	\$46,045,092
Federal Appropriations	0
Local Appropriations	0
Contracts and grants:	
Federal	57,843,281
State	15,776,978
Local	
Private	3,975,143
Interest on student loans receivable	150,256
Sales and Services of Educational Activities	1,374,710
Auxiliary enterprise revenue (net of scholarship allowance)	31,465,900
Other operating revenue	<u>6,040,235</u>
Total operating revenues	\$162,671,595
<b>OPERATING EXPENSES:</b>	
Salaries and wages	\$117,314,818
Benefits	29,217,704
Supplies and other services	62,846,323
Student financial aid – scholarships and fellowships	31,531,426
Loan Cancellations and write offs	127,435
Utilities	7,535,915
Depreciation	12,096,832
Fees Assessed by the Commission for operations	1,173,139
Other Operating Expenses	<u>829,794</u>
Total operating expenses	\$262,673,386
<b>OPERATING LOSS</b>	(\$100,001,791)
<b>NONOPERATING REVENUE (EXPENSES)</b>	
State appropriations	102,694,705
Gifts	45,000
Investment income	3,478,508
Interest on indebtedness	(689,877)
Fees Assessed by the Commission for Debt Service and Reserves	(4,910,116)
Student financial aid payments to other institutions	
Loss on investments	
Other non operating expenses – net	<u>(311,349)</u>
Net non operating revenues	\$100,306,871
<b>INCOME BEFORE OTHER REVENUES, EXPENSES, GAINS OR LOSSES</b>	\$305,080
CAPITAL PROJECTS BOND PROCEEDS FROM COMMISSION	236,250
CAPITAL GRANTS AND GIFTS	<u>7,014,718</u>
INCREASE IN NET ASSETS	7,556,048
TRANSFER OF LIABILITY FROM POLICY COMMISSION	<u>(25,145,834)</u>
INCREASE/DECREASE IN NET ASSETS	(17,589,786)
NET ASSETS, BEGINNING OF YEAR (AS RESTATED)	<u>\$241,395,710</u>
NET ASSETS, END OF YEAR	<u>\$223,805,924</u>

**NOTES:**

- 1) The last separate system audits were produced for FY 2000. The system data shown for FY 2002 is a summary of the individual audits for the institutions that were members of the former systems.
- 2) West Virginia University Institute of Technology was a member of the former State College System until July 1, 1996 at which point it moved to the former University System. For comparison purposes, WVUIT is classified in the University System for the period presented.

## **Other Fees and Charges**

In addition to registration and tuition fees, other student fees are imposed for operating and capital support. REGISTRATION AND TUITION FEES CONSTITUTE THE ONLY REVENUES COMPRISING THE SOURCE OF PAYMENT OF THE BONDS. IT IS NOT ANTICIPATED THAT OTHER STUDENT FEES WILL CONSTITUTE REVENUES IN CONNECTION WITH THE PAYMENT OF THE BONDS.

## **VERIFICATION OF MATHEMATICAL COMPUTATIONS**

The accuracy of the arithmetical computations of the adequacy of maturing amounts of principal and interest on the government obligations placed in escrow to pay, when due, the principal of, premium, if any, and the interest on the Refunded Bonds will be verified by Causey Demgen & Moore Inc., certified public accountants. Such verification of arithmetical accuracy will be based upon information supplied by the Commission and the Underwriters.

## **NEGOTIABLE INSTRUMENTS**

The State Refunding Bond Act and the Act provide that the 2003 Bonds shall constitute negotiable instruments, subject only to provisions for registration of such Bonds.

## **UNDERWRITING**

Citigroup Global Markets Inc., Ferris, Baker Watts, Incorporated and Crews & Associates, Inc. (the "Underwriters") have agreed to purchase the 2003 Bonds at an aggregate purchase price of \$22,863,154.20 (representing the par amount of 2003 Bonds, \$22,160,000, plus net original issue premium of \$781,741.40, less underwriters' discount of \$78,587.20), plus accrued interest, pursuant to a bond purchase agreement between the Commission and the Underwriters. The Underwriters may offer and sell the Bonds to certain dealers (including dealers depositing such Bonds into investment trusts) and others at prices lower than the public offering price stated on the cover page hereof. The public offering prices set forth on the cover page hereof may be changed after the initial offering by the Underwriters.

## **RATINGS**

Standard & Poor's Ratings Services, a division of the McGraw Hill Companies, Inc. ("S & P") and Moody's Investors Service, Inc. ("Moody's") have assigned the 2003 Bonds the ratings of "AAA" and "Aaa" respectively, on the understanding that the financial guaranty insurance policy insuring the timely payment of the principal of and interest on the Bonds, will be issued by MBIA Insurance Corporation upon delivery of the 2003 Bonds. S & P and Moody's have assigned the 2003 Bonds underlying ratings of "A+" and "A2" respectively. No other ratings have been applied for. Any desired explanation of the significance of such ratings should be obtained from S & P or Moody's, respectively.

There is no assurance that such ratings will continue for any given period of time or that it will not be reduced or withdrawn entirely by S & P or Moody's if, in their judgment, circumstances so warrant. The Commission undertakes no responsibility either to notify the Owners of the 2003 Bonds of any revision or withdrawal of the ratings or to oppose any such revision or withdrawal, although the Commission will covenant in the Continuing Disclosure Certificate to provide notice of any rating changes to the Repositories. Any such downward revision or withdrawal may have an adverse effect on the market price of the 2003 Bonds

## **TAX MATTERS**

### **Opinion of Bond Counsel**

In the opinion of Spilman Thomas & Battle, PLLC ("Bond Counsel"), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the 2003 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code"). Bond Counsel is of the further opinion that interest on the 2003 Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although Bond Counsel observes that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income. A complete copy of the proposed form of opinion of Bond Counsel is set forth in Appendix F hereto.

To the extent the issue price of any maturity of the 2003 Bonds is less than the amount to be paid at maturity of such 2003 Bonds (excluding amounts stated to be interest and payable at least annually over the term of such 2003 Bonds), the difference constitutes "original issue discount," the accrual of which, to the extent properly allocable to each owner thereof, is treated as interest on the 2003 Bonds which is excluded from gross income for federal income tax purposes. For this purpose, the issue price of a particular maturity of the 2003 Bonds is the first price at which a substantial amount of such maturity of the 2003 Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of the 2003 Bonds accrues daily over the term to maturity of such 2003 Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis of such 2003 Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such 2003 Bonds. Owners of the 2003 Bonds should consult their own tax advisors with respect to the tax consequences of ownership of 2003 Bonds with original issue discount, including the treatment of purchasers who do not purchase such 2003 Bonds in the original offering to the public at the first price at which a substantial amount of such 2003 Bonds is sold to the public.

2003 Bonds purchased, whether at original issuance or otherwise, for an amount greater than their principal amount payable at maturity (or, in some cases, at their earlier call date) ("Premium Bonds") will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax-exempt interest received, and a purchaser's basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such purchaser. Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the 2003 Bonds. The Commission has covenanted to comply with certain restrictions designed to insure that interest on the 2003 Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the 2003 Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the 2003 Bonds. The opinion of Bond Counsel assumes compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the 2003 Bonds may adversely affect the value of, or the tax status of interest on, the 2003 Bonds. Further, no assurance can be given that pending or future legislation or amendments to the Code, if enacted into law, or any proposed legislation or amendments to the Code, will not adversely affect the value of, or the tax status of interest on, the 2003 Bonds. Prospective purchasers of 2003 Bonds are urged to consult their own tax advisors with respect to proposals to restructure the federal income tax.

Certain requirements and procedures contained or referred to in the Resolution, the Tax Certificate, and other relevant documents may be changed and certain actions (including, without limitation, defeasance of the 2003 Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. Bond Counsel expresses no opinion as to any Bond or the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than Spilman Thomas & Battle, PLLC.

Although Bond Counsel is of the opinion that interest on the 2003 Bonds is excluded from gross income for federal income tax purposes, the ownership or disposition of, or the accrual or receipt of interest on, the 2003 Bonds may otherwise affect an owner's federal liability. The nature and extent of these other tax consequences will depend upon the particular tax status of the owner or the owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

Under the Act, the 2003 Bonds shall be exempt from all state, county, and municipal taxes, and the exception shall include income, inheritance and property taxes.

In addition, no assurance can be given that any future legislation, including amendments to the Code, if enacted into law, or changes in interpretation of the Code, will not cause interest on the 2003 Bonds to be subject, directly or indirectly, to federal income taxation, or otherwise prevent owners from realizing the full current benefit of the tax status of such interest. Prospective purchasers of the 2003 Bonds should consult their own tax advisors regarding any pending or proposed tax legislation. Further, no assurance can be given that the introduction or enactment of any such future legislation, or any action of the Internal Revenue Service (the "IRS"), including but not limited to regulation, ruling, or selection of the 2003 Bonds for audit examination, or the course or result of any IRS examination of the 2003 Bonds, or obligations which present similar tax issues, will not affect the market price for the 2003 Bonds.

### **LITIGATION**

There is no litigation of any nature pending or threatened against the Commission concerning the validity of the 2003 Bonds, and the Commission will furnish to the Underwriters no-litigation certificates certifying to the foregoing at the time of the delivery of the 2003 Bonds.

### **LEGALITY**

The validity of the 2003 Bonds and the tax exemption of interest on the 2003 Bonds are subject to the approval of Spilman, Thomas & Battle, PLLC, Charleston, West Virginia, Bond Counsel, whose approving opinion will be available at the time of delivery of the 2003 Bonds. Certain matters will be passed upon for the Commission by Bruce R. Walker, Esquire, Charleston, West Virginia, its counsel, for the Underwriters by their counsel, Goodwin & Goodwin, LLP, Charleston, West Virginia, and for the Bond Insurer by its counsel, Kutak Rock LLP, Irvine, California.

### **INDEPENDENT AUDITORS**

Certain financial statements of the Commission have been audited by Deloitte & Touche LLP, Pittsburgh, Pennsylvania, independent auditors, to the extent and for the periods indicated in their report. See "APPENDIX B - Certain Financial Information as to the Commission" herein.

### **CONTINUING DISCLOSURE**

The Commission is the obligated party with respect to the 2003 Bonds and will provide the continuing disclosure described below.

Within 270 days after the end of the Commission's fiscal year (currently June 30), commencing with the fiscal year ending June 30, 2003, the Commission has agreed to deliver to the Trustee and to each nationally recognized municipal securities information repository (the "NRMSIRS") recognized as such by the Securities and Exchange Commission under Rule 15c2-12 pursuant to the Securities Exchange Act of 1934, as amended, and any state information

depository operated or designated by the State of West Virginia that is entitled to receive information from all issuers within the State of West Virginia (a "SID" and collectively with all NRMSIRS, the "Repositories") a copy of its annual audited financial statements and certain other financial, statistical and operating data for such fiscal year. Pursuant to a Continuing Disclosure Certificate, the Commission will deliver, in a timely manner, to the Repositories, the Municipal Securities Rulemaking Board, notice of the events described in paragraph b(f)(i)(C) and (D) of such Rule 15c2-12. Currently, there is no SID for the State of West Virginia. The notices of material events will be filed with the Repositories. These covenants will be made in order to assist the purchasers in complying with the Rule. For a form of the Continuing Disclosure Certificate, see APPENDIX G -"FORM OF CONTINUING DISCLOSURE CERTIFICATE." The Commission has never failed to comply in all material respects with any previous undertakings with regard to said Rule to provide annual reports or notices of material events.

Any failure to comply with the continuing disclosure requirements described above shall not, however, constitute an Event of Default under the Indenture. Under the Continuing Disclosure Agreement a Bondowner's sole remedy for such failure is to seek an order for specific performance.

Information regarding the Commission, including annual financial information, may be obtained at the following address:

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, WV 25301  
Telephone: (304) 558-0281  
Attention: Director of Finance and Facilities

#### **AMENDMENTS TO THE RESOLUTION**

The Fifth Supplemental Resolution and the Sixth Supplemental Resolution set forth various proposed amendments to the General Resolution requiring consent of at least 50% of holders of the outstanding Bonds, including the 2003 Bonds, prior to taking effect. By their purchase of the 2003 Bonds, the Owners thereof will be deemed to have approved such amendments to the General Resolution, representing the consent of the Owners of at least 50% in principal amount of the Bonds Outstanding. A description of such proposed amendments appears in Appendix E – "SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS" herein.

## MISCELLANEOUS

The foregoing descriptions or statements of provisions of the West Virginia Code of 1931, as amended and supplemented, the 2003 Bonds, the Resolution, the Bond Indenture and other documents of the Commission and the State Institutions of Higher Education are made subject, respectively, to all provisions thereof, to which reference is hereby made for complete information, and do not purport to be complete statements of such provisions. So far as any statements made in the Official Statement involve matters of opinion or projections or estimates whether or not so expressly stated, they are set forth as such and not as representations of fact, and no representation is made that any of the projections or estimates will be realized. Neither this Official Statement nor any statement, which may have been made orally or in writing, is to be construed as a contract with the Holders or purchasers of any of the 2003 Bonds. Copies of the documents mentioned in this paragraph are on file at the offices of the Commission. Delivery and distribution of this Official Statement has been duly authorized by the Commission.

### HIGHER EDUCATION POLICY COMMISSION

By: J. Thomas Jones  
Chairman

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## APPENDIX A

### STATE INSTITUTIONS OF HIGHER EDUCATION (INSTITUTIONAL MEMBERS OF THE FORMER STATE COLLEGE SYSTEM)

Bluefield State College  
219 Rock Street  
Bluefield, WV 24701

Concord College  
P.O. Box 1000  
Athens, WV 24712

Eastern WV Community and Technical College  
204 Washington Street, Suite B-1  
Moorefield, WV 26836

Fairmont State College  
1201 Locust Avenue  
Fairmont, WV 26554

Glenville State College  
200 High Street  
Glenville, WV 26351

Shepherd College  
P.O. Box 3210  
Shepherdstown, WV 25443

Southern WV Community and Technical College  
P. O. Box 2900  
Mount Gay, WV 25637

West Liberty State College  
General Delivery  
West Liberty, WV 26074

West Virginia Northern Community College  
College Square  
Wheeling, WV 26003

West Virginia State College  
P.O. Box 1000  
Institute, WV 25112

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**APPENDIX B**

**CERTAIN FINANCIAL INFORMATION AS TO THE COMMISSION**

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# ***State College System Bonds***

*Special Purpose Combined Financial Statements  
for the Years Ended June 30, 2002 and 2001, and  
Independent Auditors' Report*

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## INDEPENDENT AUDITORS' REPORT

To the West Virginia Higher Education Policy Commission  
Charleston, West Virginia

We have audited the accompanying combined statements of assets, liabilities, and fund balance (deficit) - modified cash basis of the State College System Bonds (the "Bonds"), as of June 30, 2002 and 2001, and the related combined statements of revenues collected, expenses and costs paid, and changes in fund balance (deficit) - modified cash basis for the years then ended. These financial statements are the responsibility of the Bonds' management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in Note 1 to the financial statements, these financial statements were prepared in connection with the related bond agreement on the modified cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, such financial statements present fairly, in all material respects, the combined assets, liabilities, and fund balance (deficit) of the Bonds at June 30, 2002 and 2001, and its combined revenues collected, expenses and costs paid, and changes in fund balance (deficit) for the years then ended, on the basis of accounting described in Note 1.

This report is intended solely for the information and use of the West Virginia Higher Education Policy Commission and management of the West Virginia Higher Education Policy Commission and the bondholders and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in black ink that reads "Deloitte &amp; Touche LLP". The signature is written in a cursive, flowing style.

August 14, 2002

# STATE COLLEGE SYSTEM BONDS

## COMBINED STATEMENTS OF ASSETS, LIABILITIES, AND FUND BALANCE (DEFICIT) - MODIFIED CASH BASIS JUNE 30, 2002 AND 2001

	2002			2001			
	Revenue Fund	Construction Fund	Debt Service Reserve Fund	Revenue Fund	Construction Fund	Debt Service Reserve Fund	Combined
<b>ASSETS:</b>							
Deposits with the State Treasurer in accounts of the Policy Commission	\$ 5,982,178	\$ 777,246	\$ -	\$ 7,240,023	\$ 1,141,755	\$ -	\$ 8,381,778
Deposits with the State Treasurer in accounts of the Municipal Bond Commission			104,416			84,707	84,707
Deposits with the State Investment Management Board in accounts of the Policy Commission		257,718			249,996		249,996
	<u>\$ 5,982,178</u>	<u>\$ 1,034,964</u>	<u>\$ 104,416</u>	<u>\$ 7,240,023</u>	<u>\$ 1,391,751</u>	<u>\$ 84,707</u>	<u>\$ 8,716,481</u>
<b>LIABILITIES AND FUND BALANCE (DEFICIT)</b>							
Liabilities - Bond indebtedness	\$ 33,770,000	\$ -	\$ -	\$ 36,740,000	\$ -	\$ -	\$ 36,740,000
Fund balance (deficit)	<u>(27,787,822)</u>	<u>1,034,964</u>	<u>104,416</u>	<u>(29,499,977)</u>	<u>1,391,751</u>	<u>84,707</u>	<u>(28,023,519)</u>
	<u>\$ 5,982,178</u>	<u>\$ 1,034,964</u>	<u>\$ 104,416</u>	<u>\$ 7,240,023</u>	<u>\$ 1,391,751</u>	<u>\$ 84,707</u>	<u>\$ 8,716,481</u>

See notes to combined modified cash basis financial statements.

# STATE COLLEGE SYSTEM BONDS

## COMBINED STATEMENTS OF REVENUES COLLECTED, EXPENSES AND COSTS PAID, AND CHANGES IN FUND BALANCE (DEFICIT) - MODIFIED CASH BASIS YEARS ENDED JUNE 30, 2002 AND 2001

	2002			2001		
	Revenue Fund	Construction Fund	Debt Service Reserve Fund Combined	Revenue Fund	Construction Fund	Debt Service Reserve Fund Combined
REVENUES COLLECTED:						
Student fees, net	\$ 5,454,144	\$ -	\$ 5,454,144	\$ 11,044,184	\$ -	\$ 11,044,184
Income from investments	373,460	56,324	457,670	1,418,618	63,300	1,543,512
	<u>5,827,604</u>	<u>56,324</u>	<u>5,911,814</u>	<u>12,462,802</u>	<u>63,300</u>	<u>12,587,696</u>
EXPENSES AND COSTS PAID:						
Capital improvements and related costs	2,029,375	413,111	2,450,663	6,834,871	82,995	6,925,119
Interest	2,029,375	413,111	2,086,074	6,834,871	82,995	2,239,934
	<u>3,798,229</u>	<u>(356,787)</u>	<u>1,375,077</u>	<u>5,627,931</u>	<u>(19,695)</u>	<u>3,422,643</u>
EXCESS (DEFICIENCY) OF REVENUES COLLECTED OVER EXPENSES AND COSTS PAID						
	(5,056,074)		5,056,074	(5,079,935)		5,079,935
TRANSFERS TO (FROM):						
For payment of current debt service requirements	2,970,000		(2,970,000)	2,840,000		(2,840,000)
	<u>(29,499,977)</u>	<u>1,391,751</u>	<u>(28,023,519)</u>	<u>(32,887,973)</u>	<u>1,411,446</u>	<u>(31,446,162)</u>
FUND BALANCE (DEFICIT), BEGINNING OF YEAR						
	<u>\$ (27,787,822)</u>	<u>\$ 1,034,964</u>	<u>\$ 104,416</u>	<u>\$ (29,499,977)</u>	<u>\$ 1,391,751</u>	<u>\$ 84,707</u>
FUND BALANCE (DEFICIT), END OF YEAR						
			<u>\$ (26,648,442)</u>			<u>\$ (28,023,519)</u>

See notes to combined modified cash basis financial statements.

# STATE COLLEGE SYSTEM BONDS

## NOTES TO COMBINED MODIFIED CASH BASIS FINANCIAL STATEMENTS YEARS ENDED JUNE 30, 2002 AND 2001

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### 1. ORGANIZATION

The State College System Bonds are obligations of the West Virginia Higher Education Commission (the "Commission"), an agency of the State of West Virginia. The Commission assumed the obligations for these bonds by virtue of Senate Bill 653 ("S.B. 653). S.B. 653 was enacted by the West Virginia Legislature on March 19, 2000 and restructured public higher education in West Virginia. S.B. 653 created the Commission, which is responsible for developing, gaining consensus around and overseeing the implementation and development of a higher education public policy agenda. It is charged with oversight of public higher education institutions to ensure they are accomplishing their missions and implementing the provisions set by the State statute.

S.B. 653 abolished the Board of Trustees of the State College System effective June 30, 2000, and created a one-year Interim Governing Board. Effective July 1, 2001, certain powers were transferred to newly created Governing Boards at each of the institutions of higher education. These powers and duties include, but are not limited to, the power to determine, control, supervise and manage the financial, business and educational policies and affairs of the institution(s) under its jurisdiction, the duty to develop a master plan for the institution, the power to prescribe the specific functions and institution's budget request, the duty to review at least every five years all academic programs offered at the institution, and the power to fix tuition and other fees for the different classes or categories of students enrolled at its institution.

The State College System bonds were issued between 1977-1997 to construct, renovate and maintain various academic and other facilities of the State's colleges. These obligations are administered by the Commission, as successor to various former governing boards of the West Virginia public higher education system.

The Commission has the authority to assess each public institution of higher education for payment of debt service on these system bonds. The tuition and registration fees of the members of the former State College System are generally pledged as collateral for the Commission's bond indebtedness. Student fees collected by the institution in excess of the debt service allocation are retained by the institution for internal funding of capital projects and maintenance. The Bonds remain a capital obligation of the Commission.

In accordance with requirements of the General Resolution, accounting records for the Bonds are maintained on the cash receipts and disbursements basis. Consequently, certain revenues and the related assets are recognized when received rather than when earned, and certain expenses and costs are recognized when paid rather than when the obligation is incurred. The principal modification to the cash basis of accounting is the recording of bond indebtedness.

Deposits with the State Treasurer have been pooled for maximization of investment income. These deposits are combined with deposits of various other funds. Investment income on these deposits is allocated to the various funds based on the balance of these deposits at the end of the month in which the income was earned.

Fixed assets are not capitalized since they do not represent financial resources available for expenditure, but are items for which financial resources have been used. Title to and accountability for fixed assets remain with the State.

Certain ongoing costs associated with the planning and administration of capital improvements at College System institutions are paid from this bond fund on a regular basis.

## 2. STATE COLLEGE SYSTEM BONDS

The Series 1992 Bonds were issued in December 1992, in the original principal amount of \$46,825,000 under the provisions of the Code of West Virginia, 1931, as amended, particularly Chapters 13 and 18. The Bonds were issued simultaneously with a bond issue by the University System of West Virginia Board of Trustees to provide monies which, together with other monies available to the respective boards, were used to (i) refund and defease all outstanding West Virginia Board of Regents State System Tuition Fee Revenue Bonds, 1977 Series A; the West Virginia Board of Regents State System Tuition Fee Revenue Bonds, 1986 Series A; the West Virginia Board of Regents Registration Fee Revenue Refunding Bonds, 1989 Series A and B (collectively, the "Prior Bonds"); and (ii) to provide for the payment of costs of issuing the Series 1992 Bonds.

A portion of the proceeds of the Series 1992 Bonds was used along with certain amounts pledged pursuant to the Prior Bonds, to acquire direct obligations of the United States, the State, or other obligations, the principal and interest of which are guaranteed by the United States. The principal and interest of the acquired obligations, when due, will provide monies sufficient to pay, when due, the remaining principal and interest on the outstanding Prior Bonds. At June 30, 2002 and 2001, there were approximately \$8,670,000 and \$12,760,000, respectively, of Prior Bonds outstanding which have been defeased.

The Series 1992 Bonds, with varying interest rates up to 6% per annum, mature serially through April 2007 with term bonds which have mandatory sinking fund redemptions due April 2008 through April 2012.

The 1997 Series A Bonds were issued in November 1997 in the original principal amount of \$9,920,000 with varying rates up to 5.25% and mature serially through April 2010 with term bonds which have mandatory sinking fund redemptions due April 2011 through April 2027. The 1997 Series A Bonds constitute the second series of Bonds issued and secured under the General Resolution. The 1997 Series A Bonds were issued for the purpose of financing a portion of the costs of design, acquisition, construction and equipping of certain new facilities and renovations, repairs and replacements for the State College System (the "State College System Projects") and to pay a portion of costs of issuance of the 1997 Series A Bonds. The State College System Projects consisted generally of the following: (i) a new Clarksburg Center and campus fiber optics network for Fairmont State College; (ii) two new, fully-accessible elevators, a personnel lift and roof replacements for Glenville State College; and (iii) an academic, sports and recreation center for West Liberty State College.

The Bonds are revenue bonds payable solely from pledged College System revenues, including tuition and registration fees, and earnings attributable to the investment of pledged revenues. The 1997 Series A Bonds are on parity with the Series 1992 Bonds with respect to sources of and security for payment and in all other respects. No provision of the General Resolution is to be construed to authorize the Governing Board at any time or in any manner to pledge the credit or taxing power of the State nor is any obligation or debt created by the Governing Board or issued under the General Resolution deemed to be an obligation of the State. In addition, the Bonds are fully insured as to principal and interest by AMBAC Indemnity Corporation.

Under the General Resolution, the Governing Board shall at all times 1) fix and collect revenues (as defined in General Resolution), including tuition and registration fees, from College System institutions in an amount not less than 1.0 times the principal and interest due in each fiscal year the Bonds are outstanding and 2) fix and collect revenues, when combined with other moneys legally available to be used for such purposes each year, equal to at least 1.2 times the principal and interest due in each fiscal year the Bonds are outstanding. On August 2, 2001 the Policy Commission resolved that effective for the year ended June 30, 2002, the institutions would only remit the stipulated amounts sufficient to meet debt service requirements. During the years ended June 30, 2002 and 2001, the Policy Commission 1) collected revenues approximately 1.08 and 2.17 times the principal and interest due, respectively, and 2) had moneys available approximately 2.62 and 3.62 times the principal and interest due, respectively.

A summary of annual principal and interest payments for the years subsequent to June 30, 2002 is as follows:

Fiscal Year Ending June 30	1992 Series		1997 Series A		Total Principal	Total Interest	Total	
	Principal Payments	Interest (Due April 1 and October 1)	Principal Payments	Interest (Due April 1 and October 1)				
2003	\$ 2,925,000	\$ 1,459,537	\$ 195,000	\$ 462,686	\$ 3,120,000	\$ 1,922,223	\$ 5,042,223	
2004	3,065,000	1,291,350	200,000	454,106	3,265,000	1,745,456	5,010,456	
2005	2,150,000	1,115,113	210,000	445,106	2,360,000	1,560,219	3,920,219	
2006	2,245,000	988,800	220,000	435,447	2,465,000	1,424,247	3,889,247	
2007	2,340,000	854,100	230,000	425,106	2,570,000	1,279,206	3,849,206	
2008	2,445,000	713,700	240,000	414,296	2,685,000	1,127,996	3,812,996	
2009	2,560,000	567,000	255,000	402,776	2,815,000	969,776	3,784,776	
2010	2,675,000	413,400	265,000	390,282	2,940,000	803,682	3,743,682	
2011	2,800,000	252,900	285,000	377,031	3,085,000	629,931	3,714,931	
2012	1,415,000	84,900	295,000	362,069	1,710,000	446,969	2,156,969	
2013			310,000	346,581	310,000	346,581	656,581	
2014			325,000	330,306	325,000	330,306	655,306	
2015			340,000	313,650	340,000	313,650	653,650	
2016			360,000	296,225	360,000	296,225	656,225	
2017			380,000	277,775	380,000	277,775	657,775	
2018			400,000	258,300	400,000	258,300	658,300	
2019			420,000	237,800	420,000	237,800	657,800	
2020			440,000	216,275	440,000	216,275	656,275	
2021			460,000	193,725	460,000	193,725	653,725	
2022			485,000	170,150	485,000	170,150	655,150	
2023			515,000	145,294	515,000	145,294	660,294	
2024			535,000	118,900	535,000	118,900	653,900	
2025			565,000	91,481	565,000	91,481	656,481	
2026			595,000	62,525	595,000	62,525	657,525	
2027			625,000	32,032	625,000	32,032	657,032	
2028			#					
	<u>\$ 24,620,000</u>	<u>\$ 7,740,800</u>	#	<u>\$ 9,150,000</u>	<u>\$ 7,259,924</u>	<u>\$ 33,770,000</u>	<u>\$ 15,000,724</u>	<u>\$ 48,770,724</u>

### 3. OTHER TRANSACTIONS

Certain purchasing, accounting, and other administrative services are provided by other State agencies to the Governing Board.

**4. MANDATORY WEST VIRGINIA UNIVERSITY INSTITUTE OF TECHNOLOGY ("WVUIT")  
TRANSFER**

With the transfer of WVUIT from the College System to the University System of West Virginia, effective July 1, 1996, in accordance with the University System of West Virginia, in accordance with the provisions of Senate Bill 591, WVUIT is required to make an annual payment of \$373,089 through 2012 to the College System Bonds for purposes of the College System's debt service. This amount is included within the College System's student fees income.

\* \* \* \* \*

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**APPENDIX C**  
**STATE COLLEGE SYSTEM REGULAR STUDENT FEES**

**Higher Education Policy Commission**  
**Institutional Members of the Former State College System**  
**Approved Regular Tuition and Fees Per Semester**  
**Academic Year 2002-2003**

Institution	Tuition	Registration	HERF	Faculty Improvement	College Wide	Program Fee	EMBA Fee	Health Professional	Medical Education	Rate Per Semester
	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003
<b>Bluefield State College</b>										
Resident:										
Community College	125	50	350	45	629	0	0	0	0	1,199
Baccalaureate	125	50	350	45	729	0	0	0	0	1,299
Non-Resident:										
Community College	400	250	825	130	1,543	0	0	0	0	3,148
Baccalaureate	400	250	825	130	1,543	0	0	0	0	3,148
<b>Concord College:</b>										
Undergraduate:										
Resident	125	50	350	45	911	0	0	0	0	1,481
Non-Resident	400	250	825	130	1,719	0	0	0	0	3,324
Graduate:										
Resident	125	50	350	45	1,077	0	0	0	0	1,647
Non-Resident	400	250	825	130	1,243	0	0	0	0	2,848
<b>Eastern WV Comm. &amp; Technical College (1):</b>										
Resident	125	50	212	45	348	0	0	0	0	780
Non-Resident	400	250	533	130	1,429	0	0	0	0	2,742
<b>Fairmont State College:</b>										
Resident:										
Community College	220	50	350	45	589	0	0	0	0	1,254
Baccalaureate	220	50	350	45	718	0	0	0	0	1,383
Non-Resident:										
Community College	615	250	825	130	1,132	0	0	0	0	2,952
Baccalaureate	615	250	825	130	1,350	0	0	0	0	3,170
<b>Glennville State College:</b>										
Resident:										
Community College	296	50	350	45	455	0	0	0	0	1,196
Baccalaureate	158	50	350	45	747	0	0	0	0	1,350
Non-Resident:										
Community College	622	250	825	130	1,013	0	0	0	0	2,840
Baccalaureate	484	250	825	130	1,551	0	0	0	0	3,240
<b>Shepherd College:</b>										
Resident:										
Community College	125	50	350	45	744	0	0	0	0	1,314
Baccalaureate	125	50	350	45	863	0	0	0	0	1,433
Graduate (New)	125	50	350	45	1,410	0	0	0	0	1,980
Non-Resident:										
Community College	400	250	825	130	1,625	0	0	0	0	3,230
Baccalaureate	400	250	825	130	1,886	0	0	0	0	3,491
Graduate (New)	400	250	825	130	1,851	0	0	0	0	3,456
<b>Southern WV Comm. &amp; Technical College (1):</b>										
Resident	125	50	212	45	348	0	0	0	0	780
Non-Resident	400	250	533	130	1,429	0	0	0	0	2,742
<b>West Liberty State College:</b>										
Undergraduate:										
Resident	175	50	350	45	754	0	0	0	0	1,374
Resident - Health Professions	175	50	350	45	754	0	0	35	0	1,409
Non-Resident	450	250	825	130	1,894	0	0	0	0	3,549
Non-Resident - Health Prof.	450	250	825	130	1,894	0	0	35	0	3,584
Graduate: Master's Degree Program										
Resident	195	50	434	35	1,068	0	0	0	0	1,782
Non-Resident	635	250	1,472	105	2,546	0	0	0	0	5,008

**Higher Education Policy Commission  
 Institutional Members of the Former State College System  
 Approved Regular Tuition and Fees  
 Per Semester  
 Academic Year 2002-2003**

Institution	Tuition	Registration	HERF	Faculty Improvement	College Wide	Program Fee	EMBA Fee	Health Professional	Medical Education	Rate Per Semester
	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003	2002-2003
<b>WV Northern Community College(1):</b>										
Resident	125	50	212	45	408	0	0	0	0	840
Non-Resident	400	250	533	130	1,363	0	0	0	0	2,676
<b>WVU Institute of Technology:</b>										
Resident:										
Undergraduate	125	50	350	45	963	0	0	0	0	1,533
Engineering	125	50	350	45	963	128	0	0	0	1,661
Computer Science	125	50	350	45	963	128	0	0	0	1,661
Business Humanities & Science	125	50	350	45	963	23	0	0	0	1,556
Comm. & Tech	125	50	350	45	854	23	0	0	0	1,447
Graduate	135	50	405	49	1,047	0	0	0	0	1,686
Engineering	135	50	405	49	1,047	90	0	0	0	1,776
Non-Resident:										
Undergraduate	400	250	825	130	2,227	0	0	0	0	3,832
Engineering	400	250	825	130	2,227	154	0	0	0	3,986
Computer Science	400	250	825	130	2,227	154	0	0	0	3,986
Comm. & Tech.	400	250	825	130	2,227	23	0	0	0	3,855
Business, Humanities, Science	400	250	825	130	2,227	23	0	0	0	3,855
Graduate	500	250	1,005	135	2,327	0	0	0	0	4,217
Engineering	500	250	1,005	135	2,327	90	0	0	0	4,307
Metro										
Undergraduate	263	150	588	88	1,596	0	0	0	0	2,683
Undergraduate - Engineering	263	150	588	88	1,596	141	0	0	0	2,824
Undergraduate - Business										
Humanities & Science	263	150	588	88	1,596	23	0	0	0	2,706
Community College	263	150	588	88	1,566	0	0	0	0	2,654
Community College	263	150	588	88	1,566	23	0	0	0	2,676
<b>WV State College:</b>										
Resident:										
Community College	125	50	350	45	662	0	0	0	0	1,232
Baccalaureate	125	50	350	45	807	0	0	0	0	1,377
Non-Resident:										
Community College	400	250	825	130	1,562	0	0	0	0	3,167
Baccalaureate	400	250	825	130	1,562	0	0	0	0	3,167

1) Excluded from deposit into the State System Funds.

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**APPENDIX D**

**FORM OF FINANCIAL GUARANTY INSURANCE POLICY**

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# FINANCIAL GUARANTY INSURANCE POLICY

## MBIA Insurance Corporation Armonk, New York 10504

Policy No. [NUMBER]

MBIA Insurance Corporation (the "Insurer"), in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the Issuer to [PAYING AGENT/TRUSTEE] or its successor (the "Paying Agent") of an amount equal to (i) the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Obligations" shall mean:

[PAR]  
[LEGAL NAME OF ISSUE]

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners, or the Paying Agent payment of the Insured Amounts due on such Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Issuer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

IN WITNESS WHEREOF, the Insurer has caused this policy to be executed in facsimile on its behalf by its duly authorized officers, this [DAY] day of [MONTH, YEAR].

COUNTERSIGNED:

**SPECIMEN**  
\_\_\_\_\_  
Resident L. Board Agent

City, State

STD-RCS-6  
4/95

MBIA Insurance Corporation

**SPECIMEN**  
\_\_\_\_\_  
Resident

Attest:

\_\_\_\_\_  
Assistant Secretary

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**APPENDIX E**

**SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS**

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## APPENDIX E

### SUMMARY OF CERTAIN PROVISIONS OF THE PRINCIPAL DOCUMENTS

*The following is a summary of certain material terms, provisions and covenants of (i) the General Resolution adopted by the Board of Directors of the State College System on September 9, 1992 (the "General Resolution"), as supplemented by the Fourth Supplemental Resolution adopted by the Higher Education Policy Commission (the "Commission"), successor to the Board, on March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution adopted by the Commission on April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution adopted by the Commission on June 5, 2003 (the "Sixth Supplemental Resolution") (the General Resolution, the Fourth Supplemental Resolution, the Fifth Supplemental Resolution and the Sixth Supplemental Resolution being collectively referred to herein as the "Resolution"). This summary makes use of terms defined in the Resolution, not all of which are defined in "Definitions," which follows. This summary does not purport to be final, complete or definitive, and is qualified by reference to the Resolution in their entirety for the complete and actual terms, provisions and covenants thereof.*

#### DEFINITIONS OF CERTAIN TERMS

*As used in this Summary, the following terms, unless the context requires otherwise, will have the meaning as set forth below. Any capitalized terms not defined below will have the same meaning as set forth in the Resolution, copies of which can be obtained by contacting the Commission.*

"2003 Bonds" means the Commission's Revenue Refunding Bonds (College Facilities), 2003 Series A.

"Act" means, collectively Chapter 18, Article 12B; Chapter 18B, Articles 1, 1B, 2, 3 and 10; and Chapter 13, Article 2G of the Code of West Virginia, 1931, as the same have been and may from time to time be amended.

"Additional Bonds" means any Bonds issued, executed, authenticated and delivered pursuant to the General Resolution, other than the Series 1992 Bonds, to finance the Costs of Projects or for any other purpose permitted by the Act, and may include Variable Rate Bonds or Capital Appreciation Bonds, provided that, if Variable Rate Bonds, such Additional Bonds shall provide a cap upon the interest rate for such Additional Bonds and upon the interest rate to be paid to the issuer of any Credit Facility issued in connection with such Additional Bonds.

"Board" means the Board of Directors of the State College System, a public corporation and governmental instrumentality of the State, exercising essential governmental functions for a public purpose and created by the Act, and any body, agency, board or instrumentality, which shall succeed to functions of the Board.

“Bonds” means one of the bonds delivered pursuant to the General Resolution, including the 1997 Bonds, the 2003 Bonds, any subsequently issued Additional Bonds and any subsequently issued Refunding Bonds issued pursuant to Article II thereof.

“Bond Counsel” means an attorney or firm of attorneys of recognized standing in the field of law relating to municipal, state and public agency financing, selected by the Commission.

“Bond Counsel’s Opinion” means an opinion signed by Bond Counsel rendered pursuant to the provisions of the Resolution.

“Bond Fund” means a fund by that name established with the Municipal Bond Commission pursuant to Section 7.01 of the General Resolution with respect to a Series of Bonds.

“Bond Insurer” means MBIA Insurance Corporation, a New York stock insurance Corporation.

“Bond Insurance Policy” means the financial guaranty insurance Policy by the Bond Insurer in connection with the payment of principal and interest on the 2003 Bonds.

“Bond Proceeds Fund” means a fund by that name established with the State Treasury pursuant to Section 7.01 of the General Resolution with respect to a Series of Bonds.

“Bond Year” means, with respect to a Series of Bonds, the period established and designed as such by the Related Supplemental Resolution.

“Bonds To Be Refunded” means that portion of the Prior Bonds to be refunded by the issuance of the 2003 Bonds.

“Certificate” means (i) a signed document either attesting to or acknowledging the circumstances, representations or other matters therein stated or set forth or setting forth matters to be determined pursuant to the General Resolution or (ii) the report of an Accountant as to audit or other procedures called for by the General Resolution.

“Closing Date” means the date upon which there is an exchange of the 2003 A Bonds for the proceeds of the sale thereof, representing the purchase price of the 2003 A Bonds, by the Original Purchaser.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated.

“Colleges” means, collectively, the State institutions of higher education under the supervision, management and control of the Commission.

“Commission” means the Higher Education Policy Commission, a commission of the State of West Virginia, and its successors and assigns. The Commission is the successor to the Board.

“Costs of Issuance” means all items of fees and expenses, directly or indirectly payable or reimbursable by or to the Commission and related to the authorization, sale and issuance of Bonds, including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Municipal Bond Commission, and any Paying Agent or Registrar, legal fees, expenses and charges, fees, expenses and disbursements of consultants and professionals, costs of credit ratings, fees and charges for preparation, execution, transportation and safekeeping of Bonds, costs and expenses of refunding, premiums, fees and expenses of any Credit Provider providing a Credit Facility with respect to any Bonds, financing charges, accrued interest with respect to the initial investment of proceeds of Bonds and any other cost, charge or fee in connection with the original issuance of Bonds.

“Credit Facility” means any letter of credit, policy of insurance, guaranty or similar instrument issued by a Credit Provider, which secures the payment of the Principal, Purchase Price or Redemption Price of or interest on any Bonds, but shall not include any Reserve Fund Credit Facility.

“Credit Provider” means any bank, trust company, national banking association, insurance company or other entity which is the issuer of a Credit Facility and, in the case of a Credit Facility for Variable Rate Bonds, which is rated in the highest short-term rating category assigned by S&P or Moody’s.

“Debt Service” means, with respect to any particular Fiscal Year and any particular Series of Bonds, an amount equal to the sum of (i) all interest payable on such Bonds during such Fiscal Year, plus (ii) any Principal Installments of such Bonds during such Fiscal Year. For purposes of computing “Debt Service,” the rate of interest used to determine (i) above shall be a rate per annum equal to (1) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds, and (2) with respect to any Series of Variable Rate Bonds, the rate which is equal to the average of all the interest rates in effect (or which would have been in effect had such Bonds been Outstanding) during the immediately preceding twelve month period.

“Debt Service/Additional Bonds” means, with respect to any Fiscal Year, an amount equal to the aggregate of (i) all interest payable during such Fiscal Year on all Bonds to be Outstanding as of the date immediately after the delivery of the Additional Bonds to be issued, plus (ii) any Principal Installments payable during such Fiscal Year on all Bonds to be Outstanding as of the date immediately after the delivery of the Additional Bonds to be issued. For purposes of computing “Debt Service/Additional Bonds,” the rate of interest used to determine (i) above shall be a rate per annum equal to with respect to any Series of Bonds, which bear interest at a fixed rate, the rate of interest borne or to be borne by such bonds.

“Electronic Means” means telecopy, telegraph, telex, facsimile transmission, e-mail transmission or other similar electronic means of communication, including a telephonic communication confirmed by writing or written transmission.

“Event of Default” means any of the events specified in Section 9.01 of the General Resolution.

“Fourth Supplemental Resolution” means the Fourth Supplemental Resolution adopted by the Commission on April 24, 2003 as it may be amended or supplemented, and includes all exhibits and schedules thereto.

“Fiscal Year” means a twelve-month period commencing on the first day of July of any year, or such other twelve-month period adopted as the Fiscal Year of the Commission.

“Fourth Supplemental Resolution” means the Fourth Supplemental Resolution adopted by the Commission on March 17, 2003 as it may be amended or supplemented, and includes all exhibits and schedules thereto.

“Government Agency Obligations” means bonds, notes or other evidence of indebtedness issued or guaranteed by, any agency of the United States of America.

“Government Obligations” means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, including but not limited to obligations issued by the Resolution Trust Corporation, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

“Interest Payment Date” means any date upon which interest on any Bonds is due and payable in accordance with their terms and any Related Supplemental Resolution. With respect to the 2003 Bonds, “Interest Payment Date” means each April 1 or October 1 commencing October 1, 2003.

“Municipal Bond Commission” means the West Virginia Municipal Bond Commission or its successor.

“Outstanding,” when used with reference to Bonds, means, as of any date, all Bonds theretofore delivered or thereupon being delivered under the General Resolution except:

(a) Any Bond canceled by the Registrar or delivered to the Registrar for cancellation after purchase in the open market or because of payment at or redemption prior to maturity;

(b) Any Bond (or portion of a Bond) deemed to be paid within the meaning of Article VIII of the General Resolution; and

(c) Any Bond in lieu of or in substitution for which other Bonds shall have been delivered pursuant to Article III of the General Resolution.

“Owner,” “Holder,” “Bondholder,” “Registered Owner” or similar term when used with reference to a Bond, means any person in whose name a Bond is registered on the registration books of the Commission maintained by the Registrar.

“Paying Agent” means the Municipal Bond Commission and Bank One, N. A., West Virginia, or its successors, designated as a paying agency or place of payment for the 2003 Bonds.

“Permitted Investments” means the following:

(a) (i) cash (insured at all times by FDIC or otherwise collateralized with obligations described in clause (ii) below), or;

(ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America.

(b) obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, including:

- Export-Import Bank
- Farm Credit System Financial Assistance Corporation
- Rural Economic Community Development Administration  
(formerly the Farmers Home Administration)
- General Services Administration
- U. S. Maritime Administration
- Small Business Administration
- Government National Mortgage Association (GNMA)
- U. S. Department of Housing & Urban Development (PHA's)
- Federal Housing Administration
- Federal Financing Bank

(c) direct obligations of any of the following federal agencies.

- senior debt obligations rated “AAA” by S&P and “Aaa” by Moody’s issued by the federal National Mortgage Association or the Federal Home Loan Mortgage Corporation
- senior debt obligations of other Government Sponsored Agencies approved by [Insurer]
- obligations of the Resolution Funding Corporation (REFCORP)
- senior debt obligations of the Federal Home Loan Bank System

(d) U. S. dollar denominated deposit accounts, federal funds and banker’s acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of A-1” or “A-1+” by S&P and “P-1” by Moody’s and maturing no more than 360 days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(e) commercial paper which his rated at the time of purchase in the single highest classification, “A-1+” by S&P and “P-1” by Moody’s and which matures not more than 270 days after the date of purchase;

(f) Investments in a money market fund rated “AAAm” or “AAAm-G” or better by S&P including money market funds managed by the Paying Agent or an affiliate of the Paying Agent;

(g) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice;

(i) which are rated, based on an irrevocable escrow account or fund (the “escrow”), in the highest rating category of S&P and Moody’s or any successors thereto; or

(ii)(i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in Paragraph A(2) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and

redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(h) investment agreements approved in writing by the Bond Insurer supported by appropriate opinions of counsel with notice to S&P; and

(i) general obligations of states with a rating of at least "A2/A" or higher by both Moody's and S&P.

(j) other forms of investments (including repurchase agreements) approved in writing by the Bond Insurer with notice to S&P.

The value of the above investments shall be determined as follows:

"Value," which shall be determined as of the end of each month, means that the value of any investments shall be calculated as follows:

- (w) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;
- (x) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Commission in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;
- (y) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest, and
- (z) as to any investment not specified above: the value thereof established by prior agreement between the Commission and the Bond Insurer.

"Principal Installment" means, as of any date of calculation, (i) the aggregate principal amount of Outstanding Bonds due on a certain future date, reduced by the aggregate principal amount of such Bonds which would be retired by reason of the payment when due and application in accordance with the General Resolution of Sinking Fund Payments payable before such future date, plus (ii) any Sinking Fund Payments due on such certain future date, plus (iii) with respect to any Capital Appreciate Bonds due on such certain future date, plus (iii) with respect to any Capital Appreciation Bonds due on such certain future date, the Accredited Value of such Capital Appreciation Bonds.

“Principal Payment Date” means, with respect to any Series of Bonds, any date upon which a Principal Installment is due and payable.

“Prior Bonds” means, collectively, as of any date, Bonds theretofore issued by the Commission or its predecessors and Outstanding as of the date of issuance of the 2003 Bonds.

“Registrar” means Bank One, Charleston, West Virginia, or its successors, designated as registrar for the 2003 Bonds.

“Related Supplemental Resolution” means with respect to a Series of Bonds, the Supplemental Resolution providing for the issuance of such Bonds. The Fourth Supplemental Resolution, the Fifth Supplemental Resolution and the Sixth Supplemental Resolution, collectively, are the Related Supplemental Resolutions providing for issuance of the 2003 Bonds.

“Revenues” means, collectively

(i) all tuition and registration fees collected at Colleges governed by the Commission and earnings thereon, except tuition collected at Southern West Virginia Community and Technical College, Eastern West Virginia Community and Technical College and West Virginia Northern Community and Technical College;

(ii) all proceeds of any Bonds deposited with the State Treasury or the Municipal Bond Commission and earnings thereon, until expended;

(iii) all other fees, charges, rentals, grants and moneys from any source collected at Colleges governed by the Commission and earnings thereon, that may now or hereafter be legally available for payment of Debt Service and that are specifically pledged by resolution of the Commission for payment of any Bonds pursuant to a Supplemental Resolution;

(iv) any other funds from any source that may now or hereafter be legally pledged by the Commission and made available for payment of Debt Service and are specifically pledged by the Commission for such payment by Supplemental Resolution; and

(v) all tuition and registration fees collected at Universities previously governed by the University System Board and now supervised by the Commission and earnings thereon, provided that the consolidation of such tuition and registration fees with the fees described in clause (i) of this definition of Revenues has been approved by Supplemental Resolution.

“S&P” means Standard & Poor’s Rating Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the state of its organization, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Commission by notice to the Paying Agent.

“Series” means all of the Bonds delivered on original issuance in a simultaneous transaction and designated as a distinct series, regardless of variations in maturity, interest rate, Sinking Fund Payments or other provisions, and any Bonds thereafter delivered in lieu of or in substitution for (but not to refund) such Bonds as herein provided.

“Sinking Fund Payment” means, as of any particular date of calculation and with respect to a Series of Bonds, the amount required to be paid by the Commission on a certain future date for the retirement of Outstanding Bonds of such Series which mature after said future date, but does not include any amount payable by the Commission by reason of the maturity of a Bond or by call for redemption at the option of the Commission.

“Sixth Supplemental Resolution” means the Sixth Supplemental Resolution adopted by the Commission on June 4, 2003 as it may be amended or supplemented, and includes all exhibits and schedules thereto.

“State Treasury” means the treasury of the State of West Virginia established pursuant to the Constitution and Laws of the State.

“Tax Agreement” means the tax agreement, non-arbitrage certificate or similar agreement and/or certificate, which may be entered into or delivered by the Commission relating to a Series of Bonds.

“Tax-Exempt Bonds” means Bonds of any Series the interest on which, in Bond Counsel’s Opinion, is excludable from the gross income of the recipients thereof for federal income tax purposes.

“Treasurer” means the Treasurer of the State of West Virginia.

“West Virginia State Legislature” means the legislature of the State of West Virginia as it shall convene from time to time.

## THE RESOLUTION

General Resolution Constitutes Contract. The General Resolution constitutes a contract between the Commission, the Holders of their Bonds and any Credit Providers, and the pledges made in the General Resolution and the covenants and agreements therein set forth to be performed by the Commission shall be for the equal benefit, protection and security of the Holders of any and all of the Bonds, all of which, without regard to the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as is expressly provided therein.

Authorization for Issuance of Bonds. The Fourth Supplemental Resolution, the Fifth Supplemental Resolution and the Sixth Supplemental Resolution, collectively, authorize issuance by the Commission of the 2003 Bonds to provide sufficient fund (together with other moneys of the Commission) to refund the Bonds To Be Refunded and to pay Costs of Issuance of the 2003 Bonds.

Bonds are Limited Obligations. The Bonds issued under the General Resolution are limited obligations of the Commission payable solely from the Revenues. No provisions of the General Resolution shall be construed to authorize the Commission at any time or in any manner to pledge the credit or taxing power of the State, nor shall any of the obligations or debts created by the Commission or issued under the General Resolution be deemed to be obligations of the State.

Additional Bonds. Prior to issuance of any Additional Bonds, the Commission is required by the General Resolution to deliver a Certificate to the effect that:

(i) all payments into the respective funds and accounts provided for in the General Resolution and any Related Supplemental Resolution respecting Bonds theretofore issued and then Outstanding shall have been made in full to the date of issuance and delivery of such Additional Bonds and no Event of Default shall then be existing; and

(ii) the Revenues of the type set forth in subsection (i) of the definition of "Revenues" in Section 1.02 of the General Resolution, collected by the Commission for the last Fiscal Year preceding the date of issuance of Additional Bonds have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); or

(iii) the Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Commission

for the last Fiscal Year preceding the date of issuance of such Additional Bonds, plus Projected Revenues (as defined below) have not been less than 100% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds); and (b) Projected Revenues have not been greater than 20% of the largest amount of Debt Service due in any Fiscal Year thereafter on such Additional Bonds and any Bonds then Outstanding (other than Bonds to be refunded by such Additional Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or which were not pledged under the General Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of such Additional Bonds.

Accounts and Reports. (a) The Commission shall keep, or cause to be kept, proper books of record and account in which complete and accurate entries are made, which shall at all reasonable times be subject to the inspection of the Registrar and the Owners of an aggregate of not less than five percent (5%) in principal amount of Bonds Outstanding or their representatives duly authorized in writing.

(b) The Commission shall annually file with the Registrar and with any Credit Provider, within one hundred twenty (120) days after the close of each Fiscal Year, a copy of an audited annual financial report as to the Revenues and their obligations under the Resolutions during such Fiscal Year, and financial statements for such Fiscal Year, setting forth in reasonable detail:

(i) A combined statement of assets, liabilities and fund balance at the end of such Fiscal Year; and

(ii) A statement of revenues collected, expenses and costs paid and changes in fund balance in accordance with the categories or classifications established by the Commission for its administrative and program purposes and showing the revenues and expenses during such Fiscal Year.

Such financial statements shall be accompanied by an Accountant's Certificate stating whether the financial statements examined fairly present the financial position of the Commission at the end of the Fiscal Year, and whether the results of its operations and the changes in financial position for the period examined are in conformity with the State's modified

basis of cash receipts and disbursements which is a comprehensive basis of accounting other than generally accepted accounting principles.

(c) If at any time during any Fiscal Year there shall have occurred an Event of Default referred to in subsection (a) or (b) of Section 9.01 of the General Resolution, then the Commission shall file or cause to be filed with the Registrar within sixty (60) days after the close of such Fiscal Year, a special report, accompanied by an Accountant's Certificate as to the fair presentation of the financial statements contained therein, setting forth in reasonable detail the individual balances and receipts and disbursements for each Fund.

Debt Service Coverage. The Commission shall at all times fix and otherwise provide for the collection of Revenues in an amount not less than 100% of the Debt Service payable on all Bonds Outstanding during the then current Budget Period. To evidence its compliance with this covenant, the Commission shall, on or before November 1, deliver to the Municipal Bond Commission, any Credit Provider, any Paying Agent and each Original Purchaser of any Series of Bonds, a Certificate of an independent certified public accountant reciting that the Board was in compliance with Section 6.06 of the General Resolution during the preceding Budget Period and setting forth the amount of Revenues collected, the amount of Debt Service paid and the percentage of Debt Service coverage in effect for such Budget Period.

Operation and Maintenance. The Commission will, so long as any Bonds are Outstanding, cause the Colleges under their governance to maintain their facilities in good condition and operate the same in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof.

Insurance. The Commission will carry such insurance and in such amounts as is customarily carried with respect to properties similar to the facilities under its governance, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Commission will require that each of its contractors and all subcontractors maintain workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance during the construction of any Project. The Commission will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to all subcontractors as their interests may appear, during construction of any Project in the full insurable value thereof. The proceeds of all such insurance shall be used only for the repair and restoration of the damaged or destroyed properties. The Commission will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the facilities under their governance.

Notwithstanding any of the foregoing, the Commission may provide for the insurance required by the General Resolution through the State Board of Risk & Insurance Management by any program of self-insurance, which the State provides for itself and its agencies.

Funds and Accounts. The General Resolution creates the following funds to be held by the Municipal Bond Commission:

- (a) A Bond Fund with respect to each Series of Bonds;
- (b) A Debt Service Reserve Fund with respect to each Series of Bonds for which the Debt Service Reserve Requirement is greater than zero; and
- (c) For any Series of Bonds issued in whole or in part as Variable Rate Bonds, a Purchase Fund if so specified by a Related Supplemental Resolution.

The General Resolution creates the following funds to be held by the State Treasury or by a Paying Agent as determined by the Commission:

- (a) A Bond Proceeds Fund with respect to each Series of Bonds; and
- (b) A Costs of Issuance Fund for each Series of Bonds.

In addition to the foregoing funds, the Commission may establish such other funds and accounts as they may deem appropriate for any particular Series of Bonds by provisions therefor in the Related Supplemental Resolution.

Pledge of Revenues. The payment of the Debt Service on all Bonds issued under the General Resolution shall be secured equally and ratably by a first lien on the Revenues, and the Commission pledges the Revenues to payment of the Principal, Purchase Price and Redemption Price of and interest on the Bonds, but the existence of such pledge shall not prevent the expenditure, deposit or commingling of Revenues by the Board so long as all required payments under the General Resolution and any Supplemental Resolution are made at the times and in the amounts specified therein, provided further, however, that the Commission shall not commingle any of the Revenues with any revenues of the state university system. The Commission shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of such Revenues pledged under the General Resolution and all the rights of the Owners under the General Resolution against all claims and demands of all persons whomsoever.

Collection and Transfer of Revenues. Notwithstanding any other provisions of the General Resolution to the contrary, the collection and transfer of the Revenues shall be governed as follows: Beginning on September 1, 2003, and on each February 1 and September 1 thereafter the Treasurer shall prohibit any withdrawals from the capital improvement funds held by the Treasurer on behalf of each College until the amounts on deposit in such funds equal one-half of the Debt Service on the Bonds (the "Semi-Annual Debt Service Requirement") for the 12-month period beginning on September 1 of each year (an "Annual Payment Period")

allocable to such College and will only release funds for such College's use in excess of the College's allocable share of the Semi-Annual Debt Service Requirement. The Treasurer shall disburse the aggregate amount retained as the Semi-Annual Debt Service Requirement from all Colleges to the Municipal Bond Commission and the Paying Agent for the Bonds, as the case may be, at the times required for making such Debt Service transfers. The Commission agrees to furnish the Treasurer with the allocable amount payable by each College as its Semi-Annual Debt Service Requirements for each Annual Payment Period prior to September 1 of such Annual Payment Period.

Bond Funds. (a) Revenues sufficient for such purposes shall be applied by the Commission in the following order of priority, and except as may otherwise be provided in a Supplemental Resolution, such deposits shall be made semiannually, on the first day of each April and October:

(i) To each Bond Fund, an amount equal to the interest which has accrued since the last Interest Payment Date for the related Series of Bonds to and including the applicable Interest Payment Date and not previously deposited therein, plus an amount equal to one-half of the Principal which shall be due and payable on the applicable Principal Payment Date for the related Series of Bonds and not previously deposited therein;

(ii) To the Municipal Bond Commission, Registrar, Paying Agents, Credit Providers and other agents or fiduciaries for any Series of Bonds, the fees and expenses thereof, payable on or prior to such date;

(iii) On each Interest Payment Date for a Series of Bonds, to the applicable Bond Fund, any deficiency in the amount necessary to pay the interest due on such Interest Payment Date;

(iv) To each Principal Payment Date for a Series of Bonds, to the applicable Bond Fun, any deficiency in the amount necessary to pay the Principal due on such Principal Payment Date;

(v) To each Debt Service Reserve Fund, the amount required to be deposited therein pursuant to Section 7.04(a) of the General Resolution, or the Related Supplemental Resolution authorizing such Series of Bonds; and

(vi) To the applicable Bond Fund, the amount designated by the Commission for the optional or mandatory redemption of the related Series of Bonds (other than Sinking Fund Payments).

(b) In the event the Revenues are insufficient during any semiannual or other period to make all of the deposits required by the foregoing for all Bonds issued under the General Resolution, the Commission shall make payments pro-rata, in accordance with the respective Debt Service Requirements for each Series of Bonds issued under the General Resolution.

(c) As indicated above (see "Collection and Transfer of Revenues" herein), notwithstanding any other provisions in the General Resolution to the contrary, the collection and transfer of the Revenues shall be governed as follows: Beginning on September 1, 2003, and on each February 1 and September 1 thereafter the Treasurer shall prohibit any withdrawals from the capital improvement funds held by the Treasurer on behalf of each College until the amounts on deposit in such funds equal one-half of the Semi-Annual Debt Service Requirement for the 12-month Annual Payment Period beginning on September 1 of each year allocable to such College and will release funds for such College's use in excess of the College's allocable share of the Semi-Annual Debt Service Requirement. Such ability of the Treasurer to release funds for each College's use in excess of the College's respective allocable share of the Semi-Annual Debt Service Requirement in effect amends subsections (a)(iii), (a)(iv) and (a)(vi) above.

Costs of Issuance Funds. The Commission shall deposit into the Costs of Issuance Fund relating to a Series of Bonds the amount required to be deposited therein in the Related Supplemental Resolution. The State Treasury is authorized by the General Resolution to make disbursements from a Costs of Issuance Fund upon receipt of a Requisition signed by an Authorized Officer of the Commission.

Creation of Additional Funds, Accounts and Subaccounts. The Municipal Bond Commission shall, at the written request of the Commission, establish such additional funds, accounts and subaccounts within or in addition to any of the funds established under the General Resolution as shall be specified in such written request, for the purpose of identifying more precisely the sources of payments into and disbursements from such funds, accounts and subaccounts; but the establishment of any such additional funds, accounts or subaccounts shall not alter or modify any of the requirements of the General Resolution with respect to the deposit or use of moneys in any fund, account or subaccount established.

Investment of Certain Funds. Any fund or account held by the Commission or on behalf of the Commission by the Municipal Bond Commission or the State Treasury, may be invested or reinvested or deposited in Permitted Investments having yields and maturities as determined by an Authorized Officer. Subject to the right of an Authorized Officer to direct the investment or deposit of funds under the General Resolution, moneys in any fund or account established by the General Resolution and held by the Municipal Bond Commission or the State

Treasury shall be continuously invested and reinvested or deposited and redeposited by the Municipal Bond Commission or the State Treasury in the highest yield Permitted Investments that may be reasonably known to the Municipal Bond Commission or the State Treasury, with a view toward maximizing yield (with proper preservation of principal) and minimizing the instances of uninvested funds. An Authorized Officer shall consult with the Municipal Bond Commission and the State Treasury from time to time as to the investment of amounts in the funds and accounts held by the Municipal Bond Commission or the State Treasury. An Authorized Officer may direct the Municipal Bond Commission or the State Treasury to, or in the absence of direction, the Municipal Bond Commission or the State Treasury shall, invest and reinvest the moneys in all funds and accounts in Permitted Investments so that the maturity date or date of redemption at the option of the owner thereof shall coincide as nearly as practicable with the times at which moneys are needed to be so expended. The Permitted Investments purchased shall be held by the Municipal Bond Commission or the State Treasury and shall be deemed at all times to be part of such fund or account, and the Municipal Bond Commission or the State Treasury shall keep the Commission advised as to the details of all such investments.

Valuation and Sale of Investments. Except as may be provided in a Related Supplemental Resolution with respect to funds and accounts relating to the applicable Series of bonds, in computing the amount in any fund or account, Permitted Investments shall be valued at the lower of the cost or market price, exclusive of accrued interest. With respect to all funds and accounts except a Debt Service Revenue Fund, valuation shall occur annually. All Debt Service Reserve Funds shall be valued semiannually, except in the event of a withdrawal from such Debt Service Reserve Fund, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in any Debt Service Reserve Fund shall at any time be less than the applicable Debt Service Reserve Requirement, such deficiency shall be made up from first available moneys after required deposits to the Related Bond Fund.

Defeasance. (a) If the Commission shall pay or cause to be paid to the Owners of the Bonds the Principal, Purchase Price or Redemption Price, if applicable, and interest and all other amounts due or to become due thereon, at the times and in the manner stipulated therein and in the applicable General Resolution, then the pledge of the Revenues, payments made by such Commission in satisfaction of covenants contained herein and other moneys, securities and funds hereby pledged and all other rights granted thereby shall thereupon cease, terminate and become void and be discharged and satisfied. If the Commission shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Outstanding Bonds of a particular Series the Principal, Purchase price or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the General Resolution, then such Bonds shall cease to be entitled to any lien, benefit or security and all covenants, agreements and obligations of the Commission to the Owners of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied. Payments of Principal and interest on Bonds made by a Credit Provider pursuant to a Credit Facility shall not be deemed to have been paid within the meaning of this Section and such payments shall continue to be due and owing under the applicable General Resolution until paid by the Commission within the meaning of this provision and any agreement pursuant to the terms of which such Credit Facility is delivered.

Bonds for the payment of which moneys or securities shall have been set aside and held in trust by the Municipal Bond Commission, the State Treasury or an escrow trustee designated by the applicable Commission (through deposit by such Commission of funds for such payment or otherwise) shall be deemed to have been paid within the meaning and with the effect expressed in the preceding paragraph. All Bonds shall, prior to the maturity or Redemption Date thereof, be deemed to have been paid within the meaning and with the effect expressed in the preceding paragraph if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Commission shall have given to the Municipal Bond Commission, the State Treasury or escrow trustee, in form satisfactory to it, irrevocable instructions to give notice of redemption of such Bonds (other than Bonds which have been delivered to the Registrar by the Commission and cancelled by the Registrar as provided in the paragraph next following prior to the mailing of such notice of redemption) on said date as provided in Article V of the General Resolution, (ii) there shall have been deposited with the Municipal Bond Commission or escrow trustee, Defeasance Obligations (including any Defeasance Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Municipal Bond Commission or escrow trustee at the same time, shall be sufficient to pay when due the Principal or Redemption Price of and interest due and to become due on said Bonds on and prior to the Redemption Date or maturity date thereof, as the case may be, and (iii) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Commission shall have given the Municipal Bond Commission or escrow trustee, in form satisfactory to it, irrevocable instructions to mail, by first class mail, postage prepaid, as soon as practicable, a notice to the Owners of such Bonds as of the date of such deposit that the deposit required by (ii) above has been made and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or Redemption Date upon which moneys are to be available for the payment of the Principal or Redemption Price of and interest on said Bonds (other than Bonds which have been delivered to the Registrar by the Commission and cancelled by the Registrar as provided in the following paragraph prior to the mailing of the notice of redemption referred to in (i) above).

If at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with the preceding paragraph which are not to be redeemed prior to their maturity date or (ii) prior to the mailing of the notice of redemption referred to in the preceding paragraph with respect to Bonds deemed to have been paid in accordance with the preceding paragraph which are to be redeemed on any date prior to their maturity, the Commission purchases or otherwise acquires any such Bonds and delivers such Bonds to the Registrar prior to their maturity date or the date of mailing notice of redemption, as the case may be, the Registrar shall immediately cancel all such Bonds so delivered. Such delivery of Bonds to the Registrar shall be accompanied by directions from an Authorized Officer to the Registrar specifying the portion, if any, of such Bonds to be applied against the obligation of the Municipal Bond Commission or escrow trustee to pay Bonds deemed paid in accordance with the preceding paragraph upon their maturity date and the portion, if any, of such Bonds to be applied against the obligation of the Municipal Bond Commission or escrow trustee to redeem Bonds deemed paid in accordance with the preceding paragraph on any date prior to their maturity.

**John R. Hoblitzell, Esq.**

John R. Hoblitzell, of Charleston, is a member of the law firm of Kay Casto & Chaney PLLC where he has engaged in the practice of law since 1973. He has been an active participant in governmental affairs in West Virginia since 1969 when he was appointed as the first student member of the West Virginia Board of Regents. Mr. Hoblitzell served as a member of the West Virginia House of Delegates from Kanawha County from 1985 to 1987. While a member of the House of Delegates, he served on the House Education Committee and held the position of minority chair in the House Judiciary Committee. He is a past president of the Executive Council of the West Virginia University Alumni Association and was a member of the University System of West Virginia Board of Trustees from 1989 to 2000. Mr. Hoblitzell chaired both the Finance and Academic Program committees of the Board of Trustees and also served a two-year term as chair of the Board of Trustees. He is a graduate of West Virginia University with a bachelor's degree in Economics and the West Virginia University College of Law.

**Terry R. Sammons, Esq.**

Terry R. Sammons, of Gilbert, is proprietor of the Sammons Law Offices PLLC. Prior to that, he formed several companies: Gilbert Coal Testing Inc., Appalachian States Analytical LLC, Appalachian Network Communications Inc., Corridor G Development Inc., Langdell Inc., Foxfire Consultants Inc., Foxfire Environmental Inc., and Southern Coal Field Mine Rescue. Additionally, Mr. Sammons served as an adjunct professor at Marshall University Graduate College and assistant professor at Southern West Virginia Community and Technical College. He earned a bachelor's degree in mathematics from Berea College, an M.S. in environmental science from West Virginia Graduate College and a J.D. from Harvard Law School. He holds a teaching certificate from Marshall University.

**David L. Stewart**

David Stewart, of Charleston, was named West Virginia Superintendent of Schools in March 2000. Prior to assuming the position, he served as assistant superintendent in charge of administrative services and worked as an assistant division chief at the department of education. Dr. Stewart began his career as an elementary teacher and later worked as an elementary school principal. He served in both West Virginia and Delaware in the areas of purchasing, finance, business, accounting, and as treasurer. Additionally, he served as superintendent and assistant superintendent of a county school system. Dr. Stewart holds a bachelor's degree from Anderson College, and a master's and doctorate from West Virginia University.

**Shawn R. Williams**

Shawn R. Williams, of Clarksburg, serves on the West Virginia Faculty Merit Foundation Board of Directors, and the boards of the Harrison County YMCA, the Clarksburg-Harrison County Friends of the Library, and The Waldomore Association. She served on the West Virginia Ethics Commission and the West Virginia Educational Broadcasting Authority Board of Directors. Ms. Williams was an initial member of the State College System of West Virginia

Bankruptcy Code or any other similar application federal or state law, or shall consent to the appointment of a receiver or trustee or assignee in bankruptcy or insolvency of its or of its property, or shall make assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(f) Any event of default under any Supplemental Resolution.

Remedies. (a) Upon the happening and continuance of any Event of Default, any Credit Provider or the Owners of not less than fifty percent (50%) in principal amount of the Bonds Outstanding under the General Resolution may, by written notice to the Commission and each Credit Provider, declare the entire Principal of such Bonds to be due and payable, and upon such declaration, the same shall become due and payable, anything in the General Resolution or such Bonds to the contrary notwithstanding. This provision, however, is subject to the condition that if, at anytime after the Principal of such Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as in the General Resolution provided, (i) the Commission pays or deposits with the Municipal Bond Commission a sum sufficient to pay all interest due upon all such Bonds and the Principal and premium, if any, of all such Bonds that shall have become due otherwise than by acceleration (with interest on overdue interest and on such Principal and premium, if any, at the rate specified in the Related Supplemental Resolution) and the expenses of the Municipal Bond Commission, the Registrar and the Paying Agent, (ii) any and all Events of Default under the General Resolution, other than the nonpayment of Principal of and accrued interest on such Bonds that shall have become due by acceleration, shall have been remedied, and (iii) each Credit Facility is fully reinstated to the coverage amount provided in the Related Supplemental Resolution, such Owners shall, with the consent of each Credit Provider, waive all Events of Default and rescind and annul such declaration and its consequences; but no such waiver or rescission and annulment shall extend to or affect any subsequent Event of Default, or shall impair any right consequent thereon. The Owners shall not have the right to waive any Event of Default under the General Resolution, if, at the time of such Event of Default, a Credit Facility is in effect with respect to any Series of Bonds, without the written consent of the Credit Provider to such waiver.

(b) Upon the happening and continuance of any Event of Default, and in addition to the remedy provided in (a) above, the Owners of not less than fifty percent (50%) in aggregate Principal amount of the Bonds Outstanding under the General Resolution, may proceed to protect and enforce the rights of the Owners by such of the following remedies, which are then permitted by law, as they shall deem most effectual to protect and enforce such rights:

(i) By mandamus or other suit, action or proceeding at law or in equity, to enforce all rights of the Owners, including the right to require the Commission to receive and collect Revenues adequate to

enable the Commission to carry out any of the covenants or agreements with Owners and to perform its duties as prescribed by law;

(ii) By bringing suit upon the Bonds;

(iii) By action or suit in equity, to require the Commission to account as if it were the trustee of an express trust for the Owners of the Bonds; or

(iv) By action or suit in equity, to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

Notwithstanding any provision to the contrary, neither the Municipal Bond Commission nor the Owners of the Bond for which a Credit Facility has been provided may undertake any remedies without the prior written consent of the applicable Credit Provider.

Limitation on Rights of Owners. No Owner of any Bond shall have any right to institute any suit, action, mandamus or other proceeding in equity or at law under the General Resolution, for the protection or enforcement of any right under the General Municipal Bond Commission written notice of the Event of Default or breach of duty on account of which such suit, action or proceeding is to be taken, and unless the Owners of not less than fifty percent (50%) in Principal amount of the Bonds Outstanding shall have made written request of such Commission and the Municipal Bond Commission after the right to exercise such powers or right of action, as the case may be, shall have accrued.

Right of Credit Providers. In the event that the Commission provides for the securing of payment of the Principal, Redemption Price of or interest on the Bonds of one or more Series by obtaining a Credit Facility with respect to Debt Service, the Commission by Supplemental Resolution or an Authorized Officer by contract with the Credit Provider is authorized to provide appropriate remedies for the Credit Provider upon payment of Debt Service, including, but not limited to, the right to be deemed and treated as the Owner of any Bonds secured by such Credit Facility for all purposes of the General Resolution and for purposes of being given notices or giving directions or consents.

Supplemental Resolutions Without Owner Consent. For any one or more of the following purposes at any time or from time to time, the Commission may adopt, execute and deliver a Supplemental Resolution, without notice to or the consent of the Owners of Bonds:

(a) To close the applicable General Resolution against, or provide limitations and restrictions in addition to the limitations

and restrictions contained in such General Resolution on the delivery of Bonds or the issuance of other evidences of indebtedness;

(b) To add to the covenants and agreements of the Commission in the General Resolution and other covenants and agreements to be observed by the Commission which are not contrary to or inconsistent with the General Resolution as theretofore in effect;

(c) To add to the limitations and restrictions in the General Resolution other limitations and restrictions to be observed by the Commission which are not contrary to or inconsistent with the General Resolution as theretofore in effect;

(d) To surrender any right, power or privilege reserved to or conferred upon the Commission by the terms of the General Resolution, but only if the surrender of such right, power or privilege is not contrary to or inconsistent with the covenants and agreements of the Commission contained in the General Resolution;

(e) To subject to the lien and pledge created or to be created by, the General Resolution any other revenues or assets other than the Revenues;

(f) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in the General Resolution;

(g) To insert such provisions clarifying matters or questions arising under the General Resolution as are necessary or desirable and are not contrary to or inconsistent with the General Resolution as theretofore in effect;

(h) To modify any of the provisions of the General Resolution in any respect whatsoever, if such modification shall be, and be expressed to be, effective only after all Bonds Outstanding and affected thereby at the date of the adoption of such Supplemental Resolution shall cease to be Outstanding;

(i) To authorize the issuance of additional Series of Bonds and to prescribe the terms and conditions upon which such Bonds may be issued;

(j) To provide for the issuance of Bonds in such form as permitted by the General Resolution, and to make such other provisions as are necessary to provide for Bonds issued in such form;

(k) To modify, alter, amend or supplement the General Resolution in such manner as may be necessary or appropriate to qualify the General Resolution under the Trust Indenture Act of 1939 as then amended, or under any similar federal or state statute hereafter enacted;

(l) To modify, alter, amend or supplement the General Resolution in connection with the issuance of a Series of Bonds which by its terms affects only the proposed Series of Bonds and/or Bonds issued after the date of such Supplemental Resolution, which modification, alteration, amendment or supplement does not change the terms of redemption or maturity of the Principal of any Outstanding Bond or of any installment of interest thereon, or reduce the percentages or otherwise affect the classes of Outstanding Bonds, the consent of the Owners of which is required to effect modifications, alterations, amendments, or supplements to the General Resolution;

(m) To impose a book-entry system for one or more Series of Bonds;

(n) To modify, alter, amend or supplement the General Resolution in any manner, which is deemed necessary in Bond Counsel's Opinion to maintain the excludability from gross income of interest on any Tax-Exempt Bonds for federal income tax purposes;

(o) To modify, alter, amend or supplement the General Resolution in any manner which, in Bond Counsel's opinion does not materially adversely affect the interests of the Owners of the applicable Bonds or any Credit Provider; or

(p) To modify, alter amend or supplement the General Resolution or any Related Supplemental Resolution in any manner which affects only a Series of Bonds which are subject to optional or mandatory tender for purchase, after giving the notice for the period set forth in the Related Supplemental Resolution, if after receipt of such notice, the Owners have the opportunity to tender their Bonds for mandatory or optional tender at the time specified in the Related Supplemental Resolution.

Supplemental Resolution With Owner Consent. (a) Any modification of or amendment to the General Resolution and of the rights and obligations of the Commission and of the Owners of the Bonds other than as permitted under Section 10.01 of the General Resolution, in any particular, may be made by a Supplemental Resolution, with the written consent given as provided in Section 10.03 General Resolution (i) of the Owners of at least fifty percent (50%) in Principal amount of the Bond Outstanding at the time such consent is given, (ii) in case less than all of the several Series of Bond Outstanding are affected by the modification or amendment, of the Owners of at least fifty percent (50%) in Principal amount of the Bonds, if any, of such Series so affected and Outstanding at the time such consent is given, and (iii) in case less than all maturities of a Series of Bonds are affected by the modification or amendment, of the Owners of at least fifty percent (50%) in Principal amount of the Bonds of each maturity so affected and Outstanding at the time such consent is given; provided, however that to the extent any of the Bonds are secured by a Credit Facility, only the consent of the Credit Provider, and not the consent of the Owners of such Bonds, shall be required. If any such modification or amendment will not take effect until certain Bonds shall no longer remain Outstanding, the consent of the Owners of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section.

(b) No such modifications or amendment shall permit a change in the terms of redemption or maturity of the Principal of any Outstanding Bond or of any installment of interest thereon without the consent of the Owner of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds, the consent of the Owners of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Municipal Bond Commission of any Credit Provider without its written consent thereto. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of the General Resolution if the same adversely affects or diminishes the rights of the Owners of Bonds of such Series. The Commission may, in its sole discretion, determine whether or not Bond or any particular Series or maturity would be affected by any modification or amendment made in accordance with the foregoing powers of amendment, provided however, that it first obtain a Bond Counsel's Opinion to such effect. Any such determination shall be binding and conclusive on all Owners of Bonds.

Modifications by Unanimous Consent. The terms and provisions of the General Resolution and the rights and obligations of the Commission and of the Commission and of the Owners of the Bonds may be modified or amended in any respect upon the adoption and filing by the applicable Commission of a Supplemental Resolution and the consent of the Owners of all the Bonds Outstanding and that of any Credit Provider for such Bonds.

Immunity of Individuals. No recourse shall be had for the payment of the Principal of, Redemption Price or interest on any of the Bonds or for any claim based thereon or upon any obligations, covenant or agreement contained in the General Resolution against any past, present or future officer, member, employee or agent of the Commission, whether directly or indirectly and all such liability of any such individual as such is expressly waived and released and a condition of and in consideration for the execution of the General Resolution and the issuance of the Bonds.

## OTHER AMENDMENTS TO THE GENERAL RESOLUTION

(1) All references to the term "Commission" used in the General Resolution prior to the adoption of the Fourth Supplemental Resolution shall be deemed to refer to the Municipal Bond Commission.

(2) Prospective Amendments To General Resolution. The following amendments to the General Resolution shall only take effect upon the adoption by the Commission of a subsequent Supplemental Resolution putting such amendments into effect:

(a) Section 6.03(b) of the General Resolution shall be amended to read as follows:

(b) The payment of the Debt Service on all Bonds issued under the General Resolution shall be secured forthwith equally and ratably by a first lien on the Revenues, and the Commission hereby pledges the Revenues to payment of the Principal, Purchase Price and Redemption Price of and interest on the Bonds, but the existence of such pledge shall not prevent the expenditure, deposit or commingling of Revenues by the Commission so long as all required payments under the General Resolution and any Supplemental Resolution are made at the times and in the amounts specified herein and therein. The Commission shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of such Revenues pledged under the General Resolution and all the rights of the Owners under the General Resolution against all claims and demands of all persons whomsoever.

(3) Consolidation of System Financings. The Commission may consolidate the financings previously issued by the College System Board with the financings issued by the University of West Virginia Board of Trustees, and its successors under the terms of the general resolution dates as of September 9, 1992, as amended or supplemented from time to time (the "University General Resolution"). The General Resolution shall be amended and restated in its entirety to conform to the terms of the University General Resolution as amended and supplemented from time to time.

## BOND INSURER PROVISIONS

(A) General. Notwithstanding any provision of the Resolution to the contrary, so long as the Bond Insurance Policy is in effect and the Bond Insurer is not in default of its obligations, the provisions of this Section shall apply.

(B) Bond Insurer Deemed Owner of 2003 Bonds. The Bond Insurer shall be deemed the sole Owner of the 2003 Bonds for all purposes (except the giving of a notice of default to Bondholder). Without limiting the foregoing, there shall be no acceleration of the 2003 Bonds without the prior written consent of the Bond Insurer.

(C) Prior Consent of the Bond Insurer. Any provision in the Resolution which purports to require the prior consent of the Bond Insurer in order to take any action shall be subject to the Bond Insurance Policy then being in effect and the Bond Insurer not then in default of its obligations.

(D) Payments Under the Bond Insurance Policy.

(a) In the event that, on the second Business Day, and again on the Business Day, prior to any Interest Payment Date on the 2003 Bonds, the Paying Agent has not received sufficient moneys to pay all principal of and interest on the 2003 Bonds due on the second following or following, as the date may be, Business Day, the Paying Agent shall immediately notify the Bond Insurer or its designee on the same Business Day by telephone or telegraph, confirmed in writing by registered or certified mail, of the amount of the deficiency.

(b) If the deficiency is made up in whole or in part prior to or on the Interest Payment Date, the Paying Agent shall so notify the Bond Insurer or its designee.

(c) In addition, if the Paying Agent has notice that any Bondholder has been required to disgorge payments of principal or interest on the 2003 Bonds to a trustee in bankruptcy or creditors or others pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Bondholder within the meaning of any applicable bankruptcy laws, then the Paying Agent shall notify the Bond Insurer or its designee of such fact by telephone or telegraphic notice, confirmed in writing by registered or certified mail.

(d) The Paying Agent has been irrevocably designated, appointed, directed and authorized to act as attorney-in-fact for Holders of the 2003 Bonds as follows:

(i) If and to the extent there is a deficiency in amounts required to pay interest on the 2003 Bonds, the Paying Agent shall (a) execute and deliver to U.S. Bank Trust National Association, or its successors under the Policy (the "Insurance Paying Agent/Trustee"), in form satisfactory to the Insurance Paying Agent/Trustee, an instrument appointing the Bond Insurer as agent for such Holders in any legal proceeding related to the payment of such interest and an assignment to the Bond Insurer of the claims for interest to which such deficiency relates and which are paid by the Bond Insurer, (b) receive as designee of the respective Holders (and not as Paying Agent) in accordance with the tenor of the Policy payment from the Insurance Paying Agent/Trustee with respect to the claims for interest so assigned, and (c) disburse the same to such respective Holders; and

(ii) If and to the extent of a deficiency in amounts required to pay principal of the Series 2003 Bonds, the Paying Agent shall (a) execute and deliver to the Insurance Paying Agent/Trustee in form satisfactory to the Insurance Paying Agent/Trustee an instrument appointing the Bond Insurer as agent for such Holder in any legal proceeding relating to the payment of such principal and an assignment to the Bond Insurer of any of the 2003 Bond surrendered to the Insurance Paying Agent/Trustee of so

much of the principal amount thereof as has not previously been paid or for which moneys are not held by the Paying Agent and available for such payment (but such assignment shall be delivered only if payment from the Insurance Paying Agent/Trustee is received), (b) receive as designee of the respective Holders (and not as Paying Agent) in accordance with the tenor of the Policy payment therefor from the Insurance Paying Agent/Trustee, and (c) disburse the same to such Holders.

(e) Payments with respect to claims for interest on and principal of 2003 Bonds disbursed by the Paying Agent from proceeds of the Bond Insurance Policy shall not be considered to discharge the obligation of the Commission with respect to such 2003 Bonds, and the Bond Insurer shall become the owner of such unpaid 2003 Bond and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of this subsection or otherwise.

(f) Irrespective of whether any such assignment is executed and delivered, the Commission and the Paying Agent have agreed for the benefit of the Bond Insurer that:

(i) They recognize that to the extent the Bond Insurer makes payments, directly or indirectly (as by paying through the Paying Agent), on account of principal of or interest on the 2003 Bonds, the Bond Insurer will be subrogated to the rights of such Holders to receive the amount of such principal and interest from the Commission, with interest thereon as provided and solely from the sources stated in the Resolution and the 2003 Bonds; and

(ii) They will accordingly pay to the Bond Insurer the amount of such principal and interest (including principal and interest recovered under subparagraph (ii) of the first paragraph of the Bond Insurance Policy, which principal and interest shall be deemed past due and not to have been paid), with interest thereon as provided in the Resolution and the 2003 Bond, but only from the sources and in the manner provided herein for the payment of principal of and interest on the 2003 Bonds to Holders, and will otherwise treat the Bond Insurer as the owner of such rights to the amount of such principal and interest.

(g) The Commission shall not enter into any agreement nor shall it consent to or participate in any arrangement pursuant to which the 2003 Bonds are tendered or purchased for any purpose other than the legal defeasance of such 2003 Bonds without the prior written consent of Bond Insurer.

**APPENDIX F**

**PROPOSED FORM OF OPINION OF BOND COUNSEL**

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**APPENDIX F**

**PROPOSED FORM OF OPINION OF BOND COUNSEL**

August 13, 2003

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, West Virginia 25301

Bank One, N.A., Registrar and Paying Agent  
707 Virginia Street  
2<sup>nd</sup> Floor  
Charleston, West Virginia 25301

Municipal Bond Commission  
812 Quarrier Street, Suite 300  
Charleston, WV 25301

MBIA Insurance Corporation  
113 King Street  
Armonk, New York 10504

\$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities) 2003  
Series A

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the West Virginia Higher Education Policy Commission (the "Commission") of its \$22,160,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A, dated as of August 1, 2003 (the "2003 Bonds"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion. We have also examined an unauthenticated specimen Bond.

The Commission, a commission of the State of West Virginia (the "State"), is the successor to the Board of Directors of the State College System (the "Board") and is empowered and authorized to issue bonds pursuant to Chapter 18B, Articles 1, 1B, 2, 3 and 10, Chapter 18, Article 12B and Chapter 13, Article 2G of the Code of West Virginia, 1931, as amended (collectively, the "Act"), among other things, and in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in the Act. The 2003 Bonds are

issued pursuant to the Act, and other applicable laws, and pursuant to the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution"), all amending the General Resolution of the Board adopted September 9, 1992 (the "General Resolution") (the General Resolution, as amended and supplemented to the date of this opinion, including but not limited to the amendments and supplements made by the Fourth, Fifth and Sixth Supplemental Resolutions, being collectively referred to herein as the "Resolution"). Proceeds of the 2003 Bonds are issued to provide moneys which, together with other moneys available to the Commission, to be used to currently refund and defease all outstanding 1992 Bonds of the Board and to pay the costs associated with the issuance of the 2003 Bonds, as set forth in the Indenture. Under the Resolution, the West Virginia Municipal Bond Commission, an agency of the State of West Virginia, is responsible for holding the funds established with respect to the 2003 Bonds. Bank One, N.A., will act as Registrar and Paying Agent for the 2003 Bonds.

The Commission has also entered into a Tax Compliance Certificate, dated as of the date hereof (the "Tax Certificate"), which, among other things, sets forth restrictions on the investment and expenditure of the 2003 Bonds proceeds and earnings thereon, to ensure that the requirements of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto (collectively, the "Code"), necessary to establish and maintain the excludability from gross income for federal income tax purposes of the interest on the 2003 Bonds, are and will continue to be met.

We have not been engaged or undertaken to review the accuracy, completeness or sufficiency of the Official Statement or other offering material relating to the 2003 Bonds (except to the extent, if any, stated in the Official Statement) and we express no opinion relating thereto.

As to questions of fact material to our opinion, we have relied upon the representations of the Commission and other entities contained in the herein-described documents and certifications furnished to us by or on behalf of the Commission, without undertaking to verify the same by independent investigation.

Capitalized terms used herein, but not otherwise defined shall have the meaning given such term in the Resolution.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Commission is a commission of the State with power to adopt the Resolution, to execute and deliver the Indenture and the Tax Certificate and to perform the agreements on its part contained therein and to issue the 2003 Bonds.

2. The Resolution has been duly adopted by the Commission, is in full force and effect, and is valid and binding upon the Commission and enforceable against the Commission in accordance with its terms (except to the extent that the enforceability thereof may

be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors).

3. The Certificate of Determination, the Insurance Agreement and the Tax Certificate have been duly authorized, executed and delivered by the Commission and, assuming due authorization, execution and delivery by the other parties thereto, if any, constitute valid and binding agreements of the Commission, enforceable against the Commission in accordance with the respective terms thereof.

4. The Resolution creates the valid pledge which it purports to create of the Revenues (as defined in the Resolution), and other funds and accounts pledged under the Resolution, subject to the terms thereof.

5. The 2003 Bonds have been duly authorized, executed and delivered by the Commission and, assuming proper authentication, are valid and binding special obligations of the Commission, payable solely from the sources provided therefor in the Resolution.

6. In our opinion, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the 2003 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. We are of the further opinion that interest on the 2003 Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although we observe that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the 2003 Bonds. The Commission has covenanted in the Resolution and the Tax Certificate to comply with certain restrictions designed to insure that interest on the 2003 Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the 2003 Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the 2003 Bonds. We assume compliance with these covenants. We have not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the 2003 Bonds may adversely affect the value of, or the tax status of interest on, the 2003 Bonds.

Certain requirements and procedures contained or referred to in the Resolution, the Certificate of Determination, the Tax Certificate, and other relevant documents may be changed and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. We express no opinion as to any Bond or the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than this firm.

7. Under the Act, the 2003 Bonds shall be exempt from all state, county, and municipal taxes, and the exception shall include income, inheritance and property taxes.

The rights of the holders of the 2003 Bonds and the enforceability of the 2003 Bonds, the Resolution, the Tax Certificate and the liens and pledges set forth therein may be subject to and limited by bankruptcy laws and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that the enforcement thereof may also be subject to general principles of equity and to the exercise of judicial discretion.

Very truly yours,

Spilman Thomas & Battle, PLLC

264442

## APPENDIX G

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Certificate") dated as of August 1, 2003, from the West Virginia Higher Education Policy Commission (the "Commission") to Citigroup Global Markets Inc., Crews & Associates, Inc. and Ferris, Baker Watts, Inc., the Underwriters of the \$22,160,000 Commission of West Virginia Revenue Refunding Bonds (College Facilities), 2003 Series A (collectively, the "Bonds"), as initial purchasers (the "Purchasers") of the Bonds which are being issued by the Commission, is executed and delivered in connection with the issuance of the Bonds. Capitalized terms used in this Certificate shall have the respective meanings specified above or in Article IV hereof. The Commission certifies as follows:

#### ARTICLE I

##### The Undertaking

Section 1.1. Purpose. This Certificate shall constitute a written undertaking for the benefit of the holders of the Bonds, and is being executed and delivered solely to assist the Purchasers in complying with subsection (b)(5) of the Rule, as hereinafter defined.

Section 1.2. Annual Financial Information. (a) The Commission shall provide Annual Financial Information, including without limitation Audited Financial Statements, with respect to each fiscal year of the Commission, commencing with the fiscal year ending June 30, 2003, no later than 270 days after the end of the respective fiscal year, to each NRMSIR and the SID.

(b) The Commission shall provide in a timely manner, notice of any failure of the Commission to provide the Annual Financial Information by the date specified in subsection (a) above to (i) either the MSRB or each NRMSIR, and (ii) the SID.

Section 1.3. Material Event Notices. (a) If a Material Event occurs, the Commission shall provide, in a timely manner, notice of each Material Event to (i) either the MSRB or Each NRMSIR, (ii) the SID, and (iii) the Purchasers.

(b) Any such notice of a defeasance of Bonds shall Commission whether the Bonds have been escrowed to maturity or to an earlier redemption date and the date of such maturity or redemption.

Section 1.4. Additional Disclosure Obligations. The Commission acknowledges and understands that other state and federal laws, including but not limited to the Securities Act of 1933 and Rule 10b-5 promulgated under the Securities Exchange Act of 1934, may apply to the Commission and that, under some circumstances, additional disclosures or other action in addition to those required by this Certificate may be required to enable the

Commission to fully discharge all of its duties and obligations under such laws.

Section 1.5. Additional Information. Nothing in this Certificate shall be deemed to prevent the Commission from disseminating any other information, using the means of dissemination set forth in this Certificate or any other means of communication, or including any other information in any Annual Financial Information or notice of Material Event hereunder, in addition to that, which is required by this Certificate. If the Commission chooses to do so, the Commission shall have no obligation under this Certificate to update such additional information or include it in any future Annual Financial Information or notice of Material Event hereunder, in addition to that, which is required by this Certificate.

Section 1.6. No Previous Non-Compliance. The Commission represents that since July 3, 1995, it has not failed to comply in any material respect with any previous undertaking in a written contract or agreement, as entered into by the Commission, as issuer, specified in paragraph (b)(5)(i) of the Rule.

## ARTICLE II

### Operating Rules

Section 2.1. Reference to Other Documents. It shall be sufficient for purposes of this Certificate if the Commission provides Annual Financial Information by specific reference to documents (i) either (1) provided to each NRMSIR existing at the time of such reference and the SID or (2) filed with the SEC or (ii) if such document is an Official Statement, available from the MSRB.

Section 2.2 Submission of Information. Annual Financial Information may be provided in one document or multiple documents and at one time or in part from time to time.

Section 2.3 Transmission of Information and Notices. Unless otherwise required by law, the Commission shall employ such methods of information and notice transmission, as it shall so determine.

Section 2.4. Fiscal Year. The Commission's current fiscal year is the twelve-month period ending on June 30. The Commission shall promptly notify (i) each NRMSIR, (ii) the SID and (iii) the Purchasers of each change in its fiscal year.

## ARTICLE III

### Effective Date, Termination, Amendment and Enforcement

Section 3.1 Effective Date; Termination. (a) This Certificate shall be effective upon the issuance of the Bonds.

(b) The Commission's obligations under this Certificate shall terminate upon a legal defeasance, prior redemption or payment in full of all of the Bonds.

(c) This Certificate, or any provision hereof, shall be null and void in the event that the Commission (1) delivers to the Purchasers an opinion of Counsel, addressed to the Commission and the Purchasers, to the effect that those portions of the Rule which require this Certificate, or such provision, as the case may be, do not or no longer apply to the Bonds, whether because such portions of the Rule are invalid, have been repealed, or otherwise, as shall be specified in such opinion, and (2) delivers copies of such opinion to each NRMSIR and the SID.

Section 3.2. Amendment. (a) This Certificate may be amended without the consent of the holders of the Bonds, if all of the following conditions are satisfied: (1) such amendment is made in connection with a change in circumstances that arises from a change in legal (including regulatory) requirements, a change in law (including rules or regulations) or in interpretations thereof, or a change in the identity, nature or status of the Commission or the type of business conducted thereby, (2) this Certificate as so amended would have complied with the requirements of the Rule as of the date of this Certificate, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, (3) the Commission shall have delivered to the Purchasers an opinion of counsel, addressed to the Commission and the Purchasers, to the same effect as set forth in clause (2) above, (4) the Commission shall have delivered to the Purchasers an opinion of Counsel or a determination by a person, in each case unaffiliated with the Commission (such as bond counsel or the Purchasers) and acceptable to the Commission, addressed to the Commission and the Purchasers, to the effect that the amendment does not materially impair the interests of the holders of the Bonds, and (5) the Commission shall have delivered copies of such opinion(s) and amendment to each NRMSIR and the SID.

(b) This Certificate may be amended without the consent of the holders of the Bonds, if all of the following conditions are satisfied: (1) an amendment to the Rule is adopted, or a new or modified official interpretation of the Rule is issued, after the effective date of this Certificate which is applicable to this Certificate (2) the Commission shall have delivered to the Purchasers an opinion of Counsel, addressed to the Commission and the Purchasers, to the effect that performance by the Commission and Purchasers under this Certificate as so amended will not result in a violation of the Rule and that in the opinion of Counsel such change will not materially impair the owners of the Bonds and (3) the Commission shall have delivered copies of such opinion and amendment to each NRMSIR and the SID.

(c) To the extent any amendment to this Certificate results in a change in the type of financial information or operating data provided pursuant to this Certificate, the first Annual Financial Information provided thereafter shall include a narrative explanation of the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

(d) If an amendment is made pursuant to Section 3.2(a) hereof to the accounting principles to be followed by the Commission in preparing its financial statements, the Annual Financial Information for the fiscal year in which the change is made shall provide written explanation of such change or changes.

Section 3.3 Benefit; Third-Party Beneficiaries; Enforcement. (a) The provisions of this Certificate shall constitute a contract with and inure solely to the benefit of the holders from time to time of the Bonds, except that beneficial owners of Bonds shall be third-party beneficiaries of this Certificate and shall be deemed to be holders of Bonds for purposes of Section 3.3(b) hereof. The provisions of this Certificate shall create no rights in any person or entity except as provided in this subsection (a).

(b) The obligations of the Commission to comply with the provisions of this Certificate shall be enforceable (i) in the case of enforcement of obligations to provide Annual Financial Information and Material Event notices, by any holder of Outstanding bonds or by the Purchasers on behalf of the holders of Outstanding bonds or (ii) in the case of challenges to the adequacy of the Annual Financial Information so provided, by the Purchasers on behalf of the holders of Outstanding Bonds; provided, however, that the Purchasers shall not be required to take any enforcement action except at the direction of the holders of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding who shall have provided the Purchasers with adequate security and indemnity. The holders' and Purchasers' rights to enforce the provisions of this Certificate shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the Commission's obligations under this Certificate.

(c) Any failure by the Commission or the Purchasers to perform in accordance with this Certificate shall not constitute a default or an Event of Default under the Resolution or the Bonds, and the rights and remedies provided by the Resolution upon the occurrence of a default or an Event of Default shall not apply to any such failure.

(d) This Certificate shall be construed and interpreted in accordance with the laws of the State, and any suits and actions arising out of this Certificate shall be instituted in a court of competent jurisdiction in the Commission; provided, however, that to the extent this Certificate addresses matters of federal securities laws, including the rule, this Certificate shall be construed in accordance with such federal securities laws and official interpretations thereof.

## ARTICLE IV

### Definitions

Section 4.1. Definitions. The following items used in this Certificate shall have the following respective meanings:

(1) “Annual Financial Information” means collectively (i) the Commission’s Audited Financial Statements, and (ii) Audited Financial Statements prepared in connection with Bonds, and (iii) the information regarding amendments to this Certificate required pursuant to Sections 3.2 (c) and (d) of this Certificate. Annual Financial Information shall include Audited Financial Statements, if available, or Unaudited

(2) “Audited Financial Statements” means the annual financial statements, if any, of the Commission, audited by such auditor as shall then be required or permitted by State law. Audited Financial Statements shall be prepared in accordance with GAAP. Audited Financial Statements, for purposes of this definition, shall also be deemed to mean any special purpose financial statements, audited by such auditor as shall then be required or permitted by State law, that are prepared specifically for the Bonds, provided, that such special purpose financial statements shall be prepared in accordance with generally accepted auditing standards.

(3) “Counsel” means any nationally recognized bond counsel or counsel expert in federal securities law.

(4) “GAAP” means generally accepted accounting principles as prescribed from time to time for governmental units by the Governmental Accounting Standards Board, the Financial Accounting Standards Board, or any successor to the duties and responsibilities of either of them.

(5) “Material Event” means any of the following events with respect to the Bonds, whether relating to the Commission or otherwise, if material:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers or their failure to perform;
- (vi) adverse tax opinions or events affecting the tax-exempt status of the security;
- (vii) modifications to rights of security holders;

- (viii) bond calls;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the securities; and
- (xi) rating changes.

(6) "MSRB" means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934.

(7) "NRMSIR" means, at any time, a then existing nationally recognized municipal securities information repository, as recognized from time to time by the SEC for the purposes referred to in the Rule.

(8) "Official Statement" means "final official Statement", as defined in paragraph (f)(3) of the Rule.

(9) "Rule" means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 CFR Part 240, §240.15c2-12), as in effect on the date of this Certificate, including any official interpretations thereof issued either before or after the effective date of this Certificate which are applicable to this Certificate.

(10) "SEC" means the United Commissions Securities and Exchange Commission.

(11) "SID" means, at any time, a then-existing Commission information depository, if any, as operated or designated as such by or on behalf of the Commission for the purposes referred to in the rule. As of the date of this Certificate, there is no SID.

(12) "Unaudited Financial Statements" means the same as Audited Financial Statements, except that they shall not have been audited.

## ARTICLE V

### Miscellaneous

Section 5.1. Counterparts. This Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.2. Severability. If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof or thereof, or the Bonds, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

**IN WITNESS WHEREOF**, the Commission has caused this Certificate to be executed by its duly authorized representatives, all as of the date first above written.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By: \_\_\_\_\_  
Chairman



## CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Certificate") dated as of August 1, 2003, from the West Virginia Higher Education Policy Commission (the "Commission") to Citigroup Global Markets Inc., Crews & Associates, Inc. and Ferris, Baker Watts, Inc., the Underwriters of the \$22,160,000 Commission of West Virginia Revenue Refunding Bonds (College Facilities), 2003 Series A (collectively, the "Bonds"), as initial purchasers (the "Purchasers") of the Bonds which are being issued by the Commission, is executed and delivered in connection with the issuance of the Bonds. Capitalized terms used in this Certificate shall have the respective meanings specified above or in Article IV hereof. The Commission certifies as follows:

### ARTICLE I

#### The Undertaking

Section 1.1. Purpose. This Certificate shall constitute a written undertaking for the benefit of the holders of the Bonds, and is being executed and delivered solely to assist the Purchasers in complying with subsection (b)(5) of the Rule, as hereinafter defined.

Section 1.2. Annual Financial Information. (a) The Commission shall provide Annual Financial Information, including without limitation Audited Financial Statements, with respect to each fiscal year of the Commission, commencing with the fiscal year ending June 30, 2003, no later than 270 days after the end of the respective fiscal year, to each NRMSIR and the SID.

(b) The Commission shall provide in a timely manner, notice of any failure of the Commission to provide the Annual Financial Information by the date specified in subsection (a) above to (i) either the MSRB or each NRMSIR, and (ii) the SID.

Section 1.3. Material Event Notices. (a) If a Material Event occurs, the Commission shall provide, in a timely manner, notice of each Material Event to (i) either the MSRB or Each NRMSIR, (ii) the SID, and (iii) the Purchasers.

(b) Any such notice of a defeasance of Bonds shall Commission whether the Bonds have been escrowed to maturity or to an earlier redemption date and the date of such maturity or redemption.

Section 1.4. Additional Disclosure Obligations. The Commission acknowledges and understands that other state and federal laws, including but not limited to the Securities Act of 1933 and Rule 10b-5 promulgated under the Securities Exchange Act of 1934, may apply to the Commission and that, under some circumstances, additional disclosures or other action in addition to those required by this Certificate may be required to enable the Commission to fully discharge all of its duties and obligations under such laws.

Section 1.5. Additional Information. Nothing in this Certificate shall be deemed to prevent the Commission from disseminating any other information, using the means of dissemination set forth in this Certificate or any other means of communication, or including any other information in any Annual Financial Information or notice of Material Event hereunder, in addition to that, which is required by this Certificate. If the Commission chooses to do so, the Commission shall have no obligation under this Certificate to update such additional information or include it in any future Annual Financial Information or notice of Material Event hereunder, in addition to that, which is required by this Certificate.

Section 1.6. No Previous Non-Compliance. The Commission represents that since July 3, 1995, it has not failed to comply in any material respect with any previous undertaking in a written contract or agreement, as entered into by the Commission, as issuer, specified in paragraph (b)(5)(i) of the Rule.

## ARTICLE II

### Operating Rules

Section 2.1. Reference to Other Documents. It shall be sufficient for purposes of this Certificate if the Commission provides Annual Financial Information by specific reference to documents (i) either (1) provided to each NRMSIR existing at the time of such reference and the SID or (2) filed with the SEC or (ii) if such document is an Official Statement, available from the MSRB.

Section 2.2 Submission of Information. Annual Financial Information may be provided in one document or multiple documents and at one time or in part from time to time.

Section 2.3 Transmission of Information and Notices. Unless otherwise required by law, the Commission shall employ such methods of information and notice transmission, as it shall so determine.

Section 2.4. Fiscal Year. The Commission's current fiscal year is the twelve-month period ending on June 30. The Commission shall promptly notify (i) each NRMSIR, (ii) the SID and (iii) the Purchasers of each change in its fiscal year.

## ARTICLE III

### **Effective Date, Termination, Amendment and Enforcement**

Section 3.1 Effective Date; Termination. (a) This Certificate shall be effective upon the issuance of the Bonds.

(b) The Commission's obligations under this Certificate shall terminate upon a legal defeasance, prior redemption or payment in full of all of the Bonds.

(c) This Certificate, or any provision hereof, shall be null and void in the event that the Commission (1) delivers to the Purchasers an opinion of Counsel, addressed to the Commission and the Purchasers, to the effect that those portions of the Rule which require this Certificate, or such provision, as the case may be, do not or no longer apply to the Bonds, whether because such portions of the Rule are invalid, have been repealed, or otherwise, as shall be specified in such opinion, and (2) delivers copies of such opinion to each NRMSIR and the SID.

Section 3.2. Amendment. (a) This Certificate may be amended without the consent of the holders of the Bonds, if all of the following conditions are satisfied: (1) such amendment is made in connection with a change in circumstances that arises from a change in legal (including regulatory) requirements, a change in law (including rules or regulations) or in interpretations thereof, or a change in the identity, nature or status of the Commission or the type of business conducted thereby, (2) this Certificate as so amended would have complied with the requirements of the Rule as of the date of this Certificate, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, (3) the Commission shall have delivered to the Purchasers an opinion of counsel, addressed to the Commission and the Purchasers, to the same effect as set forth in clause (2) above, (4) the Commission shall have delivered to the Purchasers an opinion of Counsel or a determination by a person, in each case unaffiliated with the Commission (such as bond counsel or the Purchasers) and acceptable to the Commission, addressed to the Commission and the Purchasers, to the effect that the amendment does not materially impair the interests of the holders of the Bonds, and (5) the Commission shall have delivered copies of such opinion(s) and amendment to each NRMSIR and the SID.

(b) This Certificate may be amended without the consent of the holders of the Bonds, if all of the following conditions are satisfied: (1) an amendment to the Rule is adopted, or a new or modified official interpretation of the Rule is issued, after the effective date of this Certificate which is applicable to this Certificate (2) the Commission shall have delivered to the Purchasers an opinion of Counsel, addressed to the Commission and the Purchasers, to the effect that performance by the Commission and Purchasers under this Certificate as so amended will not result in a violation of the Rule and that in the opinion of Counsel such change will not materially impair the owners of the Bonds and (3) the Commission shall have delivered copies of such opinion and amendment to each NRMSIR and the SID.

(c) To the extent any amendment to this Certificate results in a change in the type of financial information or operating data provided pursuant to this Certificate, the first Annual Financial Information provided thereafter shall include a narrative explanation of the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

(d) If an amendment is made pursuant to Section 3.2(a) hereof to the accounting principles to be followed by the Commission in preparing its financial statements, the Annual Financial Information for the fiscal year in which the change is made shall provide written explanation of such change or changes.

Section 3.3 Benefit; Third-Party Beneficiaries; Enforcement. (a) The provisions of this Certificate shall constitute a contract with and inure solely to the benefit of the holders from time to time of the Bonds, except that beneficial owners of Bonds shall be third-party beneficiaries of this Certificate and shall be deemed to be holders of Bonds for purposes of Section 3.3(b) hereof. The provisions of this Certificate shall create no rights in any person or entity except as provided in this subsection (a).

(b) The obligations of the Commission to comply with the provisions of this Certificate shall be enforceable (i) in the case of enforcement of obligations to provide Annual Financial Information and Material Event notices, by any holder of Outstanding bonds or by the Purchasers on behalf of the holders of Outstanding bonds or (ii) in the case of challenges to the adequacy of the Annual Financial Information so provided, by the Purchasers on behalf of the holders of Outstanding Bonds; provided, however, that the Purchasers shall not be required to take any enforcement action except at the direction of the holders of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding who shall have provided the Purchasers with adequate security and indemnity. The holders' and Purchasers' rights to enforce the provisions of this Certificate shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the Commission's obligations under this Certificate.

(c) Any failure by the Commission or the Purchasers to perform in accordance with this Certificate shall not constitute a default or an Event of Default under the Resolution or the Bonds, and the rights and remedies provided by the Resolution upon the occurrence of a default or an Event of Default shall not apply to any such failure.

(d) This Certificate shall be construed and interpreted in accordance with the laws of the State, and any suits and actions arising out of this Certificate shall be instituted in a court of competent jurisdiction in the Commission; provided, however, that to the extent this Certificate addresses matters of federal securities laws, including the rule, this Certificate shall be construed in accordance with such federal securities laws and official interpretations thereof.

## ARTICLE IV

### Definitions

Section 4.1. Definitions. The following items used in this Certificate shall have the following respective meanings:

(1) “Annual Financial Information” means collectively (i) the Commission’s Audited Financial Statements, and (ii) Audited Financial Statements prepared in connection with Bonds, and (iii) the information regarding amendments to this Certificate required pursuant to Sections 3.2 (c) and (d) of this Certificate. Annual Financial Information shall include Audited Financial Statements, if available, or Unaudited

(2) “Audited Financial Statements” means the annual financial statements, if any, of the Commission, audited by such auditor as shall then be required or permitted by State law. Audited Financial Statements shall be prepared in accordance with GAAP. Audited Financial Statements, for purposes of this definition, shall also be deemed to mean any special purpose financial statements, audited by such auditor as shall then be required or permitted by State law, that are prepared specifically for the Bonds, provided, that such special purpose financial statements shall be prepared in accordance with generally accepted auditing standards.

(3) “Counsel” means any nationally recognized bond counsel or counsel expert in federal securities law.

(4) “GAAP” means generally accepted accounting principles as prescribed from time to time for governmental units by the Governmental Accounting Standards Board, the Financial Accounting Standards Board, or any successor to the duties and responsibilities of either of them.

(5) “Material Event” means any of the following events with respect to the Bonds, whether relating to the Commission or otherwise, if material:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;
  - (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
  - (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers or their failure to perform;
- (vi) adverse tax opinions or events affecting the tax-exempt status of the security;
- (vii) modifications to rights of security holders;
- (viii) bond calls;
- (ix) defeasances;

- (x) release, substitution, or sale of property securing repayment of the securities; and
- (xi) rating changes.

(6) "MSRB" means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934.

(7) "NRMSIR" means, at any time, a then existing nationally recognized municipal securities information repository, as recognized from time to time by the SEC for the purposes referred to in the Rule.

(8) "Official Statement" means "final official Statement", as defined in paragraph (f)(3) of the Rule.

(9) "Rule" means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 CFR Part 240, §240.15c2-12), as in effect on the date of this Certificate, including any official interpretations thereof issued either before or after the effective date of this Certificate which are applicable to this Certificate.

(10) "SEC" means the United Commissions Securities and Exchange Commission.

(11) "SID" means, at any time, a then-existing Commission information depository, if any, as operated or designated as such by or on behalf of the Commission for the purposes referred to in the rule. As of the date of this Certificate, there is no SID.

(12) "Unaudited Financial Statements" means the same as Audited Financial Statements, except that they shall not have been audited.

## ARTICLE V

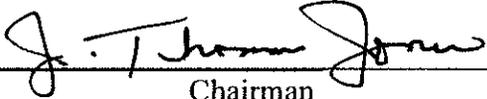
### Miscellaneous

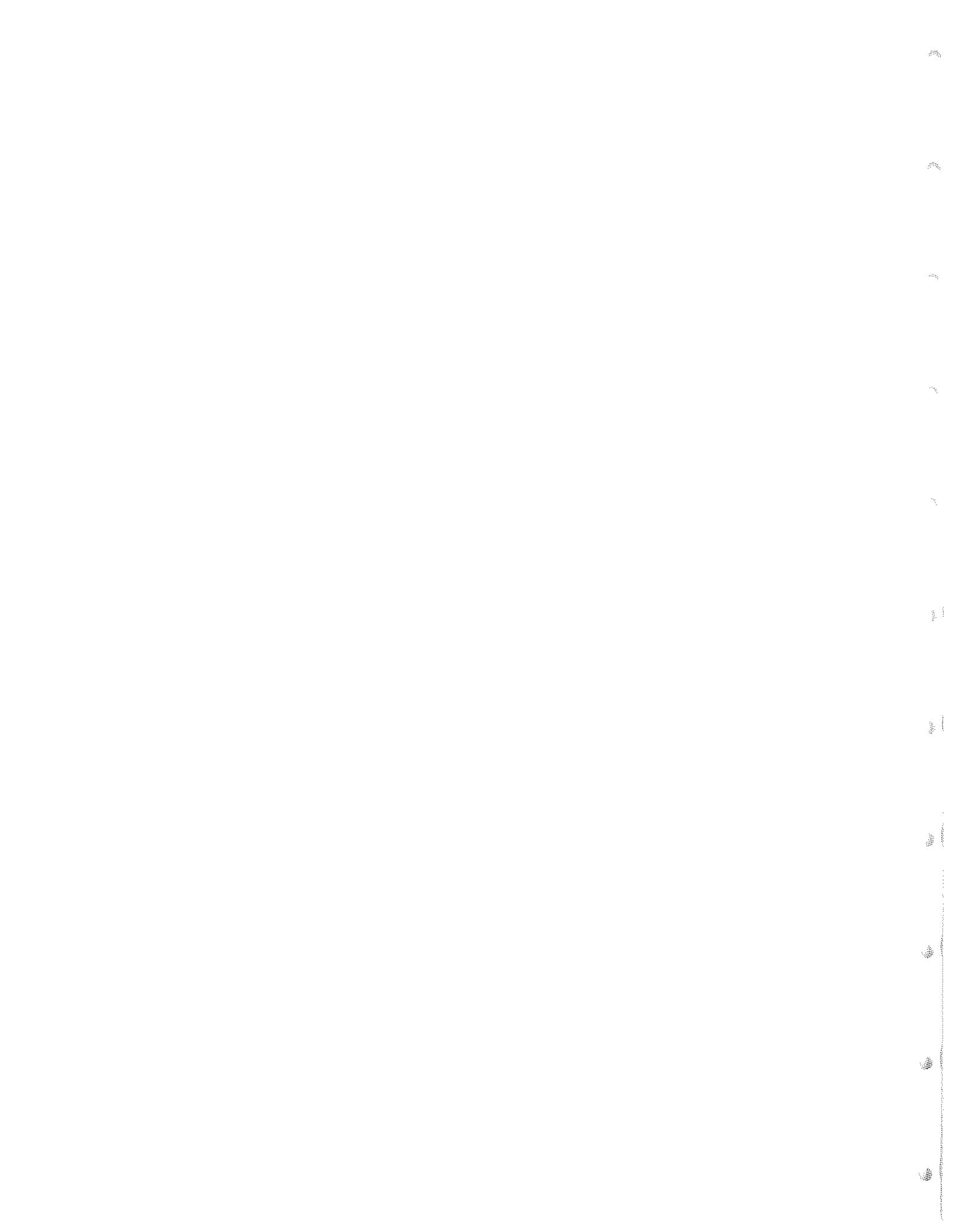
Section 5.1. Counterparts. This Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.2. Severability. If any one or more sections, clauses, sentences or parts hereof shall for any reason be questioned in any court of competent jurisdiction and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions hereof or thereof, or the Bonds, but shall be confined to the specific sections, clauses, sentences and parts so adjudged.

**IN WITNESS WHEREOF**, the Commission has caused this Certificate to be executed by its duly authorized representatives, all as of the date first above written.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By:   
Chairman



**\$22,160,000**

**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(COLLEGE FACILITIES) 2003 SERIES A**

**GENERAL CERTIFICATE OF THE  
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

On the date set forth below, the undersigned Chancellor of the West Virginia Higher Education Policy Commission (the "Commission"), a commission of the State of West Virginia (the "State"), created pursuant to Chapter 18B, Article 1B of the Code of West Virginia, as amended (the "Act"), hereby certifies, in connection with the issuance of its \$22,160,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A (the "2003 Bonds"), for and on behalf of the Commission, (i) to Citigroup Global Markets Inc., Ferris, Baker Watts, Inc., and Crews & Associates, Inc., as underwriters of the 2003 Bonds from the Commission (the "Original Purchasers" or "Purchasers"), and (ii) to all counsel in this transaction and other interested parties, as follows:

The Board of Directors of the State College System (the "Board") on September 9, 1992, adopted a General Resolution (the "General Resolution") pursuant to which it was authorized to issue one or more series of revenue bonds. The Commission is the successor to the Board and is empowered and authorized to issue bonds pursuant to the Act, among other things, in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in Section 5 of the Act, to refund the Bonds To Be Refunded.

1. All capitalized terms used in this General Certificate and not otherwise defined herein have the respective meanings ascribed to them in the General Resolution. The General Resolution was amended by the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and together with the General Resolution, the Fourth Supplemental Resolution, and the Fifth Supplemental Resolution, the "Resolution"), and the Certificate of Determination setting forth the final terms and provisions of the 2003 Bonds and executed by the Chairman of the Commission on August 13, 2003 (the "Certificate of Determination") or in the Bond Purchase Agreement (as hereinafter defined);

2. The following persons were and are the duly chosen, qualified and acting members of the Commission, to and including the date of this Certificate, holding the office set forth opposite their respective names as follows:

<u>NAME</u>	<u>OFFICE</u>	<u>EXPIRATION OF TERM</u>
J. Thomas Jones	Chairman	6/30/2004
Mary Clare Eros	Vice-Chairman	6/30/2007

Elliot G. Hicks

Secretary

6/30/2006

3. Dr. David L. Stewart is the State Superintendent of Schools and, pursuant to the Act, is an ex-officio member of the Commission. Kay Huffman Goodwin is Cabinet Secretary of the Department of Education and the Arts and, pursuant to the Act, is an ex-officio member of the Commission.

4. The following persons have been duly appointed by the Governor of the State of West Virginia, with the advice and consent of the State Senate, as members of the Commission pursuant to the Act and are now and, at all times since the commencement of their respective terms of office set forth below, have been duly appointed, qualified and acting members of the Commission, and the respective dates of termination of their terms of office are as follows:

<u>NAME</u>	<u>EXPIRATION OF TERM</u>
Shawn R. Williams	6/30/2003*
John R. Hoblitzell	6/30/2004
Richard Ken Hall	6/30/2005
Terry R. Sammons	6/20/2005

\*Serves until a successor is appointed and qualified

Each of the above-named members of the Commission is especially qualified in the field of higher education by virtue of the member's knowledge, learning, experience or interest in the field.

None of the above-named members of the Commission is an officer, employee or member of an advisory board of any State college or university (as defined in the Act), an officer or member of any political party executive committee, the holder of any other public office or public employment under the federal government or under the government of the State or any of its political subdivisions, or an appointee or employee of any governing board or an immediate family member of any employee under the jurisdiction of the Commission or any governing board.

No person who served as a member of the Commission during all or part of any two consecutive terms is presently serving as a member within three years immediately following the conclusion of the second of the his or her two consecutive terms.

5. Each person who is presently serving as a member of the Commission, before exercising any authority or performing any duties as a member of the Commission, qualified by

taking and subscribing to the oath of office prescribed by Article IV, Section 5, of the Constitution of West Virginia, and the certificate as to each such oath has been filed with the Secretary of State of the State.

6. Attached as Exhibit A hereto and incorporated herein by reference is a copy of the General Resolution, which has been compared by us to the original thereof and is true, correct and complete and identical thereto. The General Resolution was duly adopted by the Board at a meeting thereof duly called and held on September 9, 1992. A quorum of the Board was present and acting throughout said meeting. The General Resolution was amended by the Fourth Supplemental Resolution, a copy of which is attached hereto and incorporated herein by reference as Exhibit B. The Fourth Supplemental Resolution was duly adopted by the Commission at a meeting thereof duly called and held on March 17, 2003. A quorum of the Commission was present and acting throughout said meeting. The copy of the Fourth Supplemental Resolution attached hereto as Exhibit B has been compared by us to the original thereof and is true, correct and complete and identical thereto. The General Resolution was further amended by the Fifth Supplemental Resolution, a copy of which is attached hereto and incorporated herein by reference as Exhibit C. The Fifth Supplemental Resolution was adopted by the Commission at a meeting thereof duly called and held on April 24, 2003. A quorum of the Commission was present and acting throughout said meeting. The copy of the Fifth Supplemental Resolution attached hereto as Exhibit C has been compared by us to the original thereof and is true, correct and complete and identical thereto. The General Resolution was further amended by the Sixth Supplemental Resolution, a copy of which is attached hereto and incorporated herein by reference as Exhibit D. The Sixth Supplemental Resolution was adopted by the Commission at a meeting thereof duly called and held on June 5, 2003. A quorum of the Commission was present and acting throughout said meeting. The copy of the Sixth Supplemental Resolution attached hereto as Exhibit D has been compared by us to the original thereof and is true, correct and complete and identical thereto.

7. Attached to and incorporated in this General Certificate by reference as Exhibit E is a copy of the Certificate of Determination of the Commission with respect to the 2003 Bonds, duly executed by the Chairman or Vice Chairman of the Commission under the Resolution. The Certificate of Determination has been compared by us with the original on file in the office of the Commission, and is a true, complete and correct copy of the original and has not been amended, modified, supplemented to repealed and is in full force and effect.

8. Attached to and incorporated in this General Certificate by reference as Exhibit F is a specimen of the 2003 Bonds, which, except as to authentication, date of maturity, principal amount, and interest rate is identical in all respects to such 2003 Bonds this day delivered to the original purchasers thereof and is substantially in the form prescribed by the Fourth Supplemental Resolution.

9. No authority or proceedings for the issuance of the 2003 Bonds or execution, delivery and performance of the Bond Documents has been repealed, revoked, rescinded or superseded.

10. The Commission is in compliance in all respects with the Resolution and is not in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Resolution.

11. Attached to the Transcript of Proceedings as Item 11 is a copy of The Bond Purchase Agreement, dated July 31, 2003, (the "Bond Purchase Agreement") between the Commission and Citigroup Global Markets Inc., Ferris, Baker Watts, Inc., and Crews & Associates, Inc. (the "Underwriters"). The copy of the Bond Purchase Agreement attached to the Transcript of Proceedings as Item 11, has been compared by us to the original thereof and is true, correct and complete and identical thereto. The Bond Purchase Agreement was duly approved and authorized by the Commission pursuant to the Resolution and is in full force and effect and has not been modified, amended or supplemented as of the date hereof. The Commission has performed and complied with all agreements and conditions required by the Bond Purchase Agreement to be performed or complied with by it at or prior to the Closing Date.

12. In response to Section 7.2(d) of the Bond Purchase Agreement, the undersigned hereby certifies that (i) the representations and warranties made by the Commission in the Bond Purchase Agreement are true and correct as of the Closing Date with the same effect as if made on the Closing Date; (ii) the Commission has performed and complied with all agreements and conditions required by the Bond Purchase Agreement to be performed or complied with by it at or prior to the Closing Date; (iii) since the respective dates as of which information is given in the Official Statement, and except as set forth therein or in the Bond Purchase Agreement, there has not been any material or adverse change in the Commission's condition, financial or otherwise; (iv) the Official Statement, insofar as it relates to the Commission, does not include any untrue statement of a material fact or omit to state any material fact required to be stated therein, or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, (v) subsequent to June 30, 2002, the date the most recent general purpose audited financial statements included as Appendix B of the Official Statement, there has been no material adverse change in the financial position or results of operations of the Commission, (vi) that no litigation is pending or, to the knowledge of the Commission, threatened against the Commission or its officers (A) to restrain or enjoin issuance or delivery of any of the 2003 Bonds or the collection of Revenues pledged under the Resolution (B) in any way contesting or affecting any authority for the issuance of the 2003 Bonds, or the validity of the 2003 Bonds, or the Bond Documents, (as defined in the Bond Purchase Agreement) (C) in any way contesting or affecting the existence or powers of the Commission or its ability to perform its obligations under the Bond Documents, or (D) that may materially adversely affect the financial condition or operations of the Commission, (vii) that the Commission has satisfied all conditions pertaining to the issuance of the 2003 Bonds pursuant to the Resolution, the Certificate of Determination and all other applicable provisions, and (viii) that no event affecting the Commission, or the transactions contemplated by the Official Statement or the Bond Documents has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used, or which it is necessary to

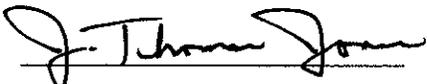
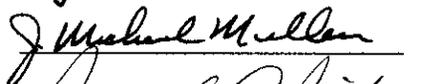
disclose therein in order to make the statements and information therein, in the light of the circumstances under which they were made, not misleading.

13. The Preliminary Official Statement dated July 28, 2003 (the "Preliminary Official Statement"), is a true copy of the Preliminary Official Statement of the Commission with respect to the 2003 Bonds, the distribution of which was ratified, confirmed and approved by the Commission pursuant to the Resolution.

14. The Official Statement dated August 13, 2003 (the "Official Statement"), is a true copy of the Official Statement of the Commission with respect to the 2003 Bonds, the distribution of which was authorized by the Commission pursuant to the Resolution. A copy of the Official Statement, signed manually by the Chancellor of the Commission, is on file in the office of the Commission.

15. The Commission is obligated under the terms of the Continuing Disclosure Certificate to perform and undertake the actions set forth therein. The Commission is in full compliance with any and all prior continuing disclosure undertakings entered into pursuant to Securities Exchange Commission Rule 15c2-12(b)(5).

16. Appearing opposite the respective names of the persons indicated below are their true and correct titles and true and correct specimens of their signatures:

<u>Name</u>	<u>Title</u>	<u>Specimen Signature</u>
J. Thomas Jones	Chairman	
J. Michael Mullen	Chancellor	
James A. Winter	Director of Finance and Facilities	

16. The Commission is not currently, nor has it been in the past, in default on any bonds, notes or other evidences of indebtedness issued by it.



IN WITNESS WHEREOF, I have duly executed this General Certificate of Commission  
this 13<sup>th</sup> day of August, 2003.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By: *J. Michael Mullen*  
J. Michael Mullen, Chancellor

266116



**EXHIBIT A**

**GENERAL RESOLUTION**

**(Please Refer to Tab No. 1)**

**EXHIBIT B**

**FOURTH SUPPLEMENTAL RESOLUTION**

**(Please Refer to Tab No. 1a)**

**EXHIBIT C**

**FIFTH SUPPLEMENTAL RESOLUTION**

**(Please Refer to Tab No. 1b)**

**EXHIBIT D**

**SIXTH SUPPLEMENTAL RESOLUTION**

**(Please Refer to Tab No. 1c)**

**EXHIBIT E**

**CERTIFICATE OF DETERMINATION**

**(Please Refer to Tab No. 6)**

**EXHIBIT F**

**SPECIMEN BOND**

**(Please Refer to Tab No. 4)**

**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES) 2003 SERIES A**

**CERTIFICATE AS TO SIGNATURES**

The undersigned, as the Governor of the State of West Virginia (the "State"), and the Chancellor of the West Virginia Higher Education Policy Commission (the "Commission"), a commission of the State, hereby certifies as follows:

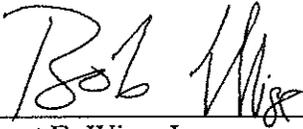
1. Subscribed below are our true and genuine signatures.
2. On or before the date hereof, the State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A, in the aggregate principal amount of \$22,160,000, dated as of August 1, 2003 (the "2003 Bonds"), and issued by the Commission on behalf of the State, was duly and completely executed on behalf of the State and the Commission by the respective manual or facsimile signatures of the undersigned Governor of the State and the undersigned Chancellor of the Commission, and by impressing thereon the Great Seal of the State and attestation thereof by the manual or facsimile signature of the undersigned Secretary of State of the State.
3. At the time of such signing and on the date hereof, we were and are the duly chosen, qualified and acting officers of the State and of the Commission, respectively, authorized to execute 2003 Bonds and holding the respective offices indicated by the official titles set opposite our signatures below.
4. The seal which is impressed below has been imprinted on the 2003 Bonds, and it is the legally adopted, proper and only official Great Seal of the State.



IN WITNESS WHEREOF, we have hereunto set our hands, and said Great Seal of the State of West Virginia has been hereunto affixed, as of this 13<sup>th</sup> day of August, 2003.

[Seal]

Signature:



Robert E. Wise, Jr.

Official Title:

Governor, State of West Virginia



J. Michael Mullen

Chancellor, West Virginia Higher Education Policy Commission



Joe Manchin

Secretary of State, State of West Virginia

266071



Handwritten signature or scribble.

**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES), 2003 SERIES A**

**CERTIFICATE OF REGISTRAR**

The undersigned, on behalf of Bank One, N.A., as registrar and paying agent (the "Registrar") in accordance with a General Resolution adopted by the Commission on September 9, 1992 (the "General Resolution"), as amended by the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and collectively with the General Resolution, the Fourth Supplemental Resolution, and the Fifth Supplemental Resolution and the Sixth Supplemental Resolution, the "Resolution"), and a Certificate of Determination dated as of August 1, 2003 (the "Certificate of Determination") with respect to the State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities), 2003 Series A issued by the West Virginia Higher Education Policy Commission (the "Commission)," in the aggregate principal amount of \$22,160,000, (the "2003 Bonds").

1. The Registrar is a national banking association duly organized, validly existing, and in good standing under the laws of the United States, and is lawfully empowered, pursuant to such laws, to execute and accept the trust contemplated and as provided under the Resolution and to serve in the capacities as Registrar and Paying Agent thereunder and hereby accepts the duties and obligations of the Registrar and Paying Agent.

2. The person indicated below was at the time of the execution of the Indenture and is now the duly elected, qualified and acting incumbent of his or her respective office, and pursuant to authorization from the Board of Directors of the Registrar, as evidenced by its resolution, an excerpt of the pertinent portion of which is attached as Exhibit A hereto, such person, in his or her official capacity, is authorized to execute and deliver the Indenture and such other documents as are necessary to complete the financing described in the Resolution for and on behalf of the Registrar.

3. Appearing opposite the respective names of the persons indicated below are their true and correct titles and true and correct specimens of their signatures:

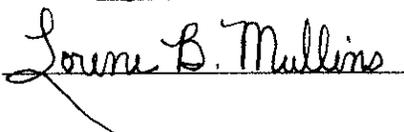
Name

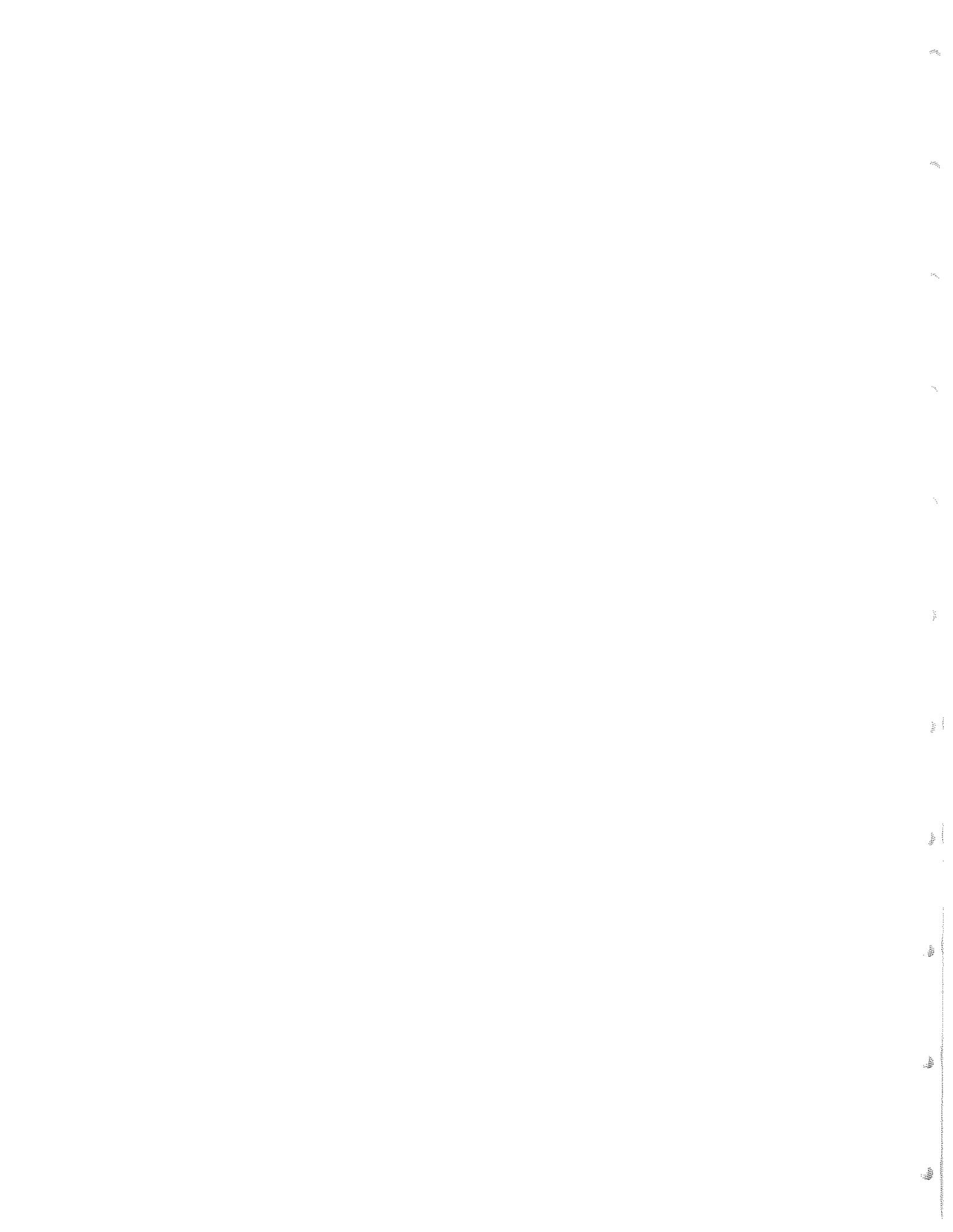
Title

Signature

Lorene B. Mullins

Vice President





4. Lorene B. Mullins, whose specimen signature appears in paragraph 3 above, is the authorized officer of the Registrar for the purposes of executing the Indenture.

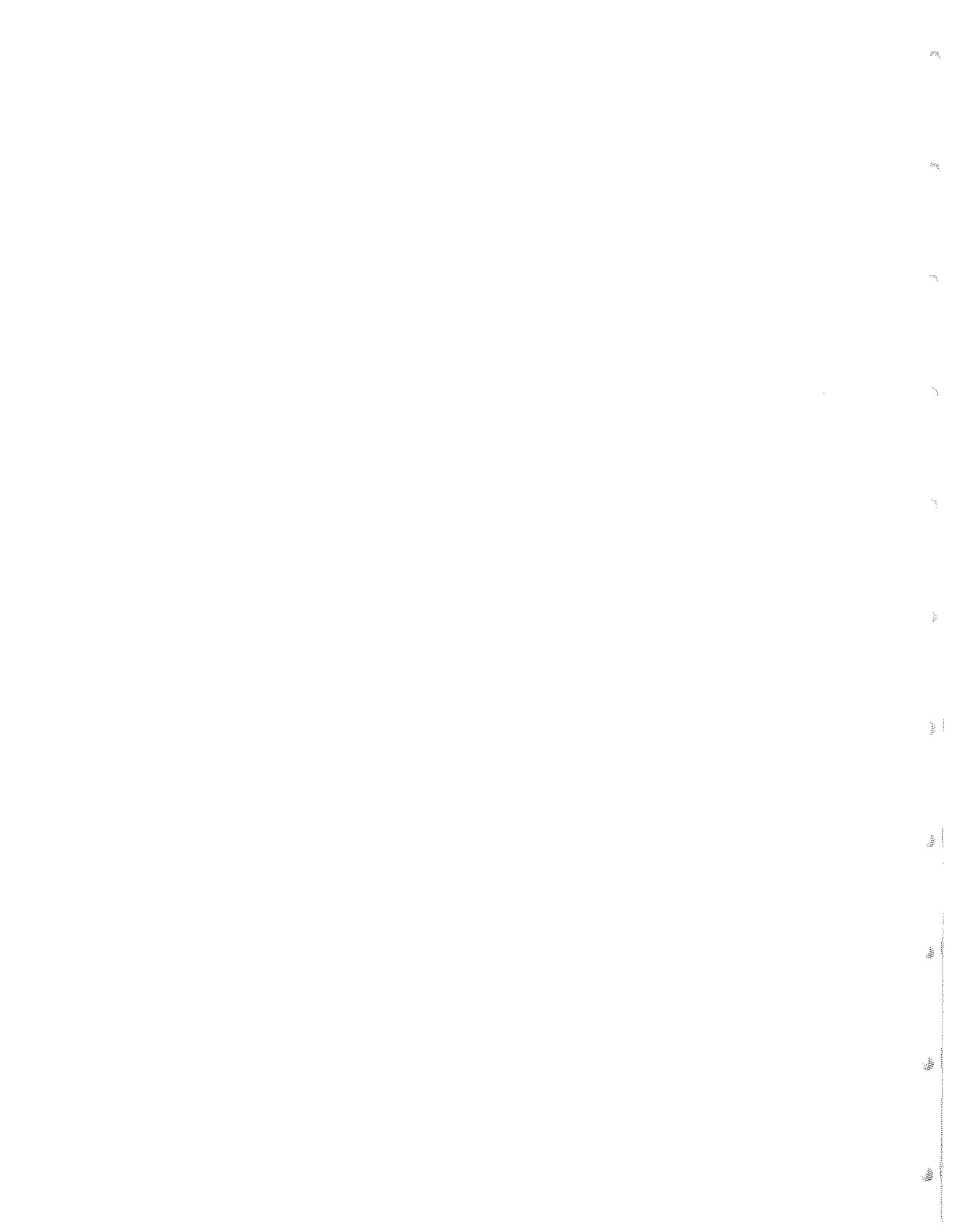
5. Having received (i) the 2003 Bond proceeds, (ii) the amount of \$132,996.07 to be deposited in the 2003 Bonds (State College Facilities) Costs of Issuance Fund, and (iii) having received the documents, certificates and other items required by the Resolution and Certificate of Determination and upon request of the Commission, the undersigned this day authenticated and delivered the Bonds to the Depository Trust Company ("DTC") on behalf of Citigroup Global Markets Inc., Ferris, Baker Watts, Inc. and Crews & Associates, Inc., as the original purchasers thereof.

6. Irrespective of whether any such assignment is executed and delivered, the Registrar hereby agrees for the benefit of the Bond Insurer that:

(i) They recognize that to the extent the Bond Insurer makes payments, directly or indirectly (as by paying through the Paying Agent), on account of principal of or interest on the 2003 Bonds, the Bond Insurer will be subrogated to the rights of such Holders to receive the amount of such principal and interest from the Commission, with interest thereon as provided and solely from the sources stated in the Resolution and the 2003 Bonds; and

(ii) They will accordingly pay to the Bond Insurer the amount of such principal and interest (including principal and interest recovered under subparagraph (ii) of the first paragraph of the Bond Insurance Policy, which principal and interest shall be deemed past due and not to have been paid), with interest thereon as provided in this Certificate, and the Reimbursement Agreement and the 2003 Bond, but only from the sources and in the manner provided herein for the payment of principal of and interest on the 2003 Bonds to Holders, and will otherwise treat the Bond Insurer as the owner of such rights to the amount of such principal and interest.

7. Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the Resolution.



IN WITNESS WHEREOF, Bank One, N.A., as Registrar has caused this Certificate to be executed by its duly authorized officer this 13<sup>th</sup> day of August, 2003.

BANK ONE, N.A., Registrar

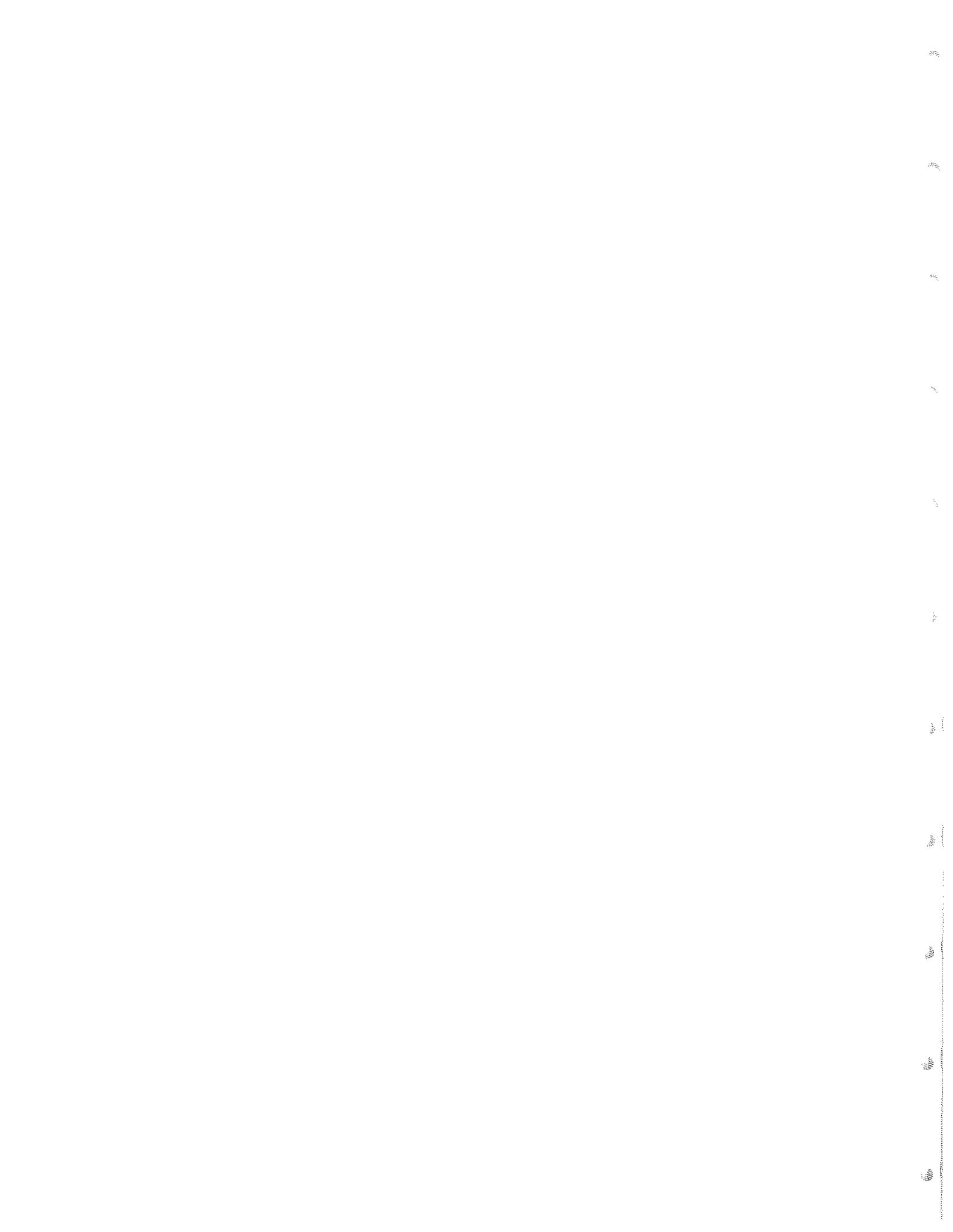
By: *Lorene B. Mullins*  
Lorene B. Mullins, Vice President

266168



**Exhibit A**

**BOARD OF DIRECTORS RESOLUTION  
BANK ONE, N.A.**



**CERTIFICATE OF AUTHORITY AND INCUMBENCY**

I, Carol H. Fletcher, a Vice President of Bank One, N.A., hereby certify that the individual whose name and specimen signature appear below is an officer of Bank One, N.A., a national banking association with the requisite authority to discharge any and all responsibilities of their positions, as such position may be in effect from time to time, including, without limitation, the authority to execute the Registrar, Transfer Agent and Paying Agency Agreement dated as of August 13, 2003 among Bank One, N.A., West Virginia Higher Education Policy Commission (College Facilities), 2003 Series A, and any other documents necessary and appropriate in the premises.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Lorene Mullins	Authorized Officer	<u><i>Lorene B. Mullins</i></u>

BANK ONE, N.A.

By *Carol H. Fletcher*  
Name: Carol H. Fletcher  
Title: Vice President

Dated this 13<sup>th</sup> day of August, 2003

## EXHIBIT A

### EXTRACT OF BY-LAWS

SECTION 3.04. EXECUTION OF DOCUMENTS. Any member of the Bank's management staff or any employee of the Bank designated as an officer on the Bank's payroll system is hereby authorized for and on behalf of the Bank to sell, assign, lease, mortgage, transfer, deliver and convey any real or personal property, including shares of stock, bonds, notes, certificates of indebtedness (including the assignment and redemption of registered United States obligations) and all other forms of intangible property now or hereafter owned by or standing in the name of the Bank, or its nominee, or held by the Bank as collateral security, or standing in the name of the Bank, or its nominee, in any fiduciary capacity or in the name of any principal for whom this Bank may now or hereafter be acting under a power of attorney or as agent, and to execute and deliver such partial releases from any discharges or assignments of mortgages and assignments or surrender of insurance policies, deeds, contracts, assignments or other papers or documents as may be appropriate in the circumstances now or hereafter held by the Bank in its own name, in a fiduciary capacity, or owned by any principal for whom this Bank may now or hereafter be acting under a power of attorney or as agent; provided, however, that, when necessary, the signature of any such person shall be attested or witnessed in each case by another officer of the Bank.

Any member of the Bank's management staff or any employee of the Bank designated as an officer on the Bank's payroll system is hereby authorized for and on behalf of the Bank to execute any indemnity and fidelity bonds, trust agreements, proxies or other papers or documents of like or different character necessary, desirable or incidental to the appointment of the Bank in any fiduciary capacity, the conduct of its business in any fiduciary capacity, or the conduct of its other banking business; to sign and issue checks, drafts, orders for the payment of money and certificates of deposit; to sign and endorse bills of exchange, to sign and countersign foreign and domestic letters of credit, to receive and receipt for payments of principal, interest, dividends, rents, fees and payments of every kind and description paid to the Bank, to sign receipts for money or other property acquired by or entrusted to the Bank, to guarantee the genuineness of signatures on assignments of stocks, bonds or other securities, to sign certifications of checks, to endorse and deliver checks, drafts, warrants, bills, notes, certificates of deposit and acceptances in all business transactions of the Bank; also to foreclose any mortgage, to execute and deliver receipts for any money or property; also to sign stock certificates for and on behalf of this Bank as transfer agent or registrar, and to authenticate bonds, debentures, land or lease trust certificates or other forms of security issued pursuant to any indenture under which this Bank now or hereafter is acting as trustee or in any other fiduciary capacity; to execute and deliver various forms of documents or agreements necessary to effectuate certain investment strategies for various fiduciary or custody customers of the Bank, including, without limitation, exchange funds, options, both listed and over-the-counter, commodities trading, futures trading, hedge funds, limited partnerships, venture capital funds, swap or collar transactions and other similar investment vehicles for which the Bank now or in the future may deem appropriate for investment of fiduciary customers or in which non-fiduciary customers may direct investment by the Bank.

Without limitation on the foregoing, the Chief Executive Officer, Chairman of the Board, or President of the Bank shall have the authority from time to time to appoint officers of the Bank as Vice President for the sole purpose of executing releases or other documents incidental to the conduct of the Bank's business in any fiduciary capacity where required by state law or the governing document. In addition, other persons in the employment of the Bank or its affiliates may be authorized by the Chief Executive Officer, Chairman of the Board, President, Senior Managing Directors, Managing Directors, or Chief Financial Officer to perform acts and to execute the documents described in the paragraph above, subject, however, to such limitations and conditions as are contained in the authorization given to such person.

**REGISTRAR, TRANSFER AGENT  
AND PAYING AGENT AGREEMENT**

This Registrar, Transfer Agent and Paying Agent Agreement ("Agreement") is executed and effective this 13<sup>th</sup> day of August, 2003 by and between **Bank One, NA**, a national banking association, as registrar, transfer and paying agent (the "Agent") and the **West Virginia Higher Education Policy Commission** ("Issuer").

WHEREAS, Issuer contemplates issuing the following; \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A (the "2003 Bonds");

WHEREAS, Issuer desires that the Agent act as agent on behalf of Issuer to perform the duties of Registrar, Transfer Agent and Paying Agent as set forth in this Agreement; and

WHEREAS, the Agent is willing to act in such capacities solely in accordance with this Agreement and subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, Issuer and the Agent agree as follows:

ARTICLE I  
DEFINITIONS

Section 1.01 Definitions

**"Paying Agent."** Any bank, trust company or other organization duly authorized and empowered by law and applicable State and Federal regulation to perform the duties set forth under Section 4.02 herein.

**"Register."** A complete listing of all holders of record of all Bonds outstanding at any time.

**"Registrar."** Any bank, trust company or other organization duly authorized and empowered by law and applicable State and Federal regulation to perform the duties set forth under Section 2.02 herein.

**"Transfer Agent."** Any bank, trust company or other organization duly authorized and empowered by law and applicable State and Federal regulation to perform the duties set forth under Section 3.02 herein.

**"Underwriter."** The firm or firms purchasing the Bonds from Issuer.

Section 1.02 Effect of Headings

The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 1.03 Successors and Assigns

All covenants and agreements contained herein by each of the parties hereto shall bind and inure to the benefit of their successors and assigns whether so expressed or not.

Section 1.04 Separability Clause

In the event any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.05 Rules of Construction

For all purposes of this Agreement unless the context otherwise indicates:

- a) Terms in the singular number shall indicate the plural and vice versa.
- b) The words "hereof" and "herein" shall be construed to refer to the entirety of this Agreement and to not be restricted to the particular Article, Section, subsection or paragraph in which they occur.
- c) Terms of the masculine gender shall be deemed and construed to include correlative terms of the feminine and neuter genders.

ARTICLE II  
REGISTRAR

Section 2.01 Acceptance by the Agent as Registrar

Issuer hereby appoints the Agent to act as Registrar for the Bonds, and the Agent hereby agrees to perform the duties of Registrar as more fully set forth under this Article II, upon the terms and subject to the conditions of this Agreement.

Section 2.02 Duties of Registrar

The duties of Registrar shall be:

- a) to authenticate by manual signature, prepare and deliver Bonds upon the instructions of Issuer or the Underwriter as agent for Issuer; and
- b) to keep and maintain the Register complete, current and accurate at all times; and

- c) to maintain a full and complete accounting of all Bonds issued; outstanding, destroyed, and in inventory; and
- d) permit the inspection of the Register during the Agent's normal business hours by Issuer or any other person or entity with a legitimate legal interest therein; and
- e) to cancel any Bond which has been paid, redeemed, transferred, exchanged, converted or otherwise required to be canceled; and
- f) to destroy all canceled Bonds, at such time as law permits and to provide Issuer with a certificate which lists all Bonds so destroyed; and
- g) to provide information concerning the Bonds and its Register to any party entitled to such information.

Section 2.03 Duties of Issuer

- a) Issuer agrees to provide or cause the Underwriter to provide to Registrar at the time of initial issuance of the Bonds an accurate and complete list setting forth the following information; all of which shall be in a form acceptable to the Agent:
  - 1) Each bondholder's name as it is to appear on each Bond to be issued, or in the event a Bond is to be registered to a trust or to a minor, then Registrar will be provided with all information necessary to register such Bond in proper legal form; and
  - 2) Each bondholder's address; and
  - 3) Each bondholder's Social Security Number or Federal Tax Identification Number; and
  - 4) The principal amount of each Bond to be issued; and
  - 5) The stated maturity of each Bond to be issued; and
  - 6) The rate of interest applicable to each Bond; and
  - 7) Any other information required by applicable tax or other laws, rules or regulations.
- b) Issuer agrees to provide or cause to be provided the information enumerated under (a) immediately above with sufficient lead time to permit the Agent to perform its duties here under in an orderly and

deliberate manner.

- c) Issuer agrees to provide a sufficient supply of Bonds, in a form acceptable to Registrar, to enable Registrar to issue Bonds. Further Issuer agrees to provide a sufficient supply of additional Bonds to enable the Agent to perform its duties as Transfer Agent, as set forth under Article IV herein. All Bonds, at the time so provided to the Agent, will be numbered consecutively and will be fully executed by duly authorized representatives of Issuer.

### ARTICLE III TRANSFER AGENT

#### Section 3.01 Acceptance by the Agent as Transfer Agent

Issuer hereby appoints the Agent to act as Transfer Agent for the Bonds, and the Agent hereby agrees to perform the duties of Transfer Agent for the Bonds, upon the terms and subject to the conditions of this Agreement.

#### Section 3.02 Duties of Transfer Agent

The duties of the Transfer Agent will be to:

- a) Transfer the ownership on the Register of any Bond when said Bond, which has been duly and properly endorsed in a manner acceptable to the Agent and in relation therewith all things required by law and regulation have been done, is presented for transfer; and
- b) Issue a replacement Bond of like tenor in the name of the designated transferee after performing the duties enumerated in (a) immediately above; and
- c) Issue a replacement Bond of like tenor in lieu of any mutilated, lost, destroyed, or stolen Bond upon receipt by the Agent of evidence to its satisfaction of the mutilation, destruction, loss or theft of such Bond and such security or indemnification as the Agent may reasonably require to hold it harmless from any liability for its issuance of a replacement bond; and
- d) As Transfer Agent, the Agent agrees to effect the transfer of ownership of any Bond presented in proper and acceptable form for such transfer within 3 business days of the Agent's receipt of the Bond to be transferred.

Section 3.03 Duties of Issuer

Issuer agrees to provide the Agent with a sufficient supply of unissued Bonds to enable the Agent to perform its duties under this Article III. Upon written notice from the Agent, Issuer agrees to cause to be printed any additional Bonds required by the Agent subsequent of initial issuance as long as any Bonds remain outstanding. Prior to delivering any such additional Bonds to the Agent, Issuer agrees to affix the applicable seals and required signatures of its authorized representatives.

Section 3.04 Record Date

The Agent shall not be required to transfer or exchange any Bond after the fifteenth day immediately preceding any date fixed for the payment of interest or principal on any of the Bonds.

Section 3.05 Persons Deemed Owners

The Agent shall treat each person in whose name any Bond is registered on the Register as the owner of such Bond, for all purposes and at all times, both before and after maturity of any Bond, including without limitation, the payment of principal of, premium on, if any, and interest on such Bond and for all other intents and purposes. The Agent shall not be affected by any knowledge of facts or notice to the contrary, except for the Agent's own act or acts involving willful misconduct or gross negligence.

ARTICLE IV  
PAYING AGENT

Section 4.01 Acceptance by Agent as Paying Agent

Issuer hereby appoints the Agent to act as Paying Agent for the Bonds, and Agent hereby accepts appointment as Paying Agent for the Bonds, upon the terms and subject to the conditions of this Agreement.

Section 4.02 Duties of Paying Agent

The Agent, as Paying Agent, agrees to punctually pay by bank draft to bondholders of record the principal of, premium, if any, and interest on the Bonds but only to the extent that Issuer has deposited with the Agent sufficient collected funds for such purposes. The Agent agrees to perform necessary and customary duties with respect to any presentations, surrenders, notices, and demands in connection with the Bonds. The Agent agrees to maintain a full and complete accounting of all funds deposited with and disbursed by the Agent under this Agreement, and to furnish Issuer with such periodic reports as it may require with respect thereof.

Section 4.03 Limitation of Liability of Agent for Payment

Notwithstanding any other provision herein, the Agent shall not be obligated to pay any person any claim arising here under or under the Bonds an amount in excess of the amount actually on deposit with the Agent in immediately available funds. Under no circumstances shall the Agent be required to advance or pay its own funds to any person claiming any interest in any bond, nor shall the Agent be liable in any manner for the sufficiency, adequacy, correctness or source of any funds on deposit with the Agent or for any other debts or obligations of Issuer, however arising.

Section 4.04 Payments Due on Saturdays, Sundays, and Holidays

In any case where any payments with respect to the Bonds shall fall due on a Saturday, a Sunday, a legal holiday, or a day upon which banking institutions are closed in the City of AAA, or in such other locality as Agent may maintain its principal offices, are authorized by law to close for business, then said payments need not be made on such date, but shall be made on the next succeeding banking business day with the same force and effect as if made on the day upon which said payments fall due.

Section 4.05 Unclaimed Principal or Interest

In the event any principal or interest payment cannot be made as a result of Agent's inability, after due diligence, to locate the bondholder of record to whom such payments are due, and in the event that such bondholder has not claimed such payments, or corresponded in writing with Issuer or the Agent concerning such payments within five (5) years after the date prescribed for payment, then funds deposited with Agent by Issuer for any such payments will be returned to the Issuer and the bondholder shall look solely to the Issuer for payment thereof from and after such date.

ARTICLE V  
MISCELLANEOUS

Section 5.01 Agent's Fees and Expenses

The Agent's fees and expenses as compensated for the performance of its duties as Registrar, Transfer Agent and Agent under the terms of this Agreement shall be as follows:

Acceptance Fee	-	\$ 500.00
Annual Fee	-	\$ 600.00

Fees and expenses quoted in this Section 5.01 are based upon current charges and expenses. The Agent reserves the right to revise its fees in the normal course of business due to increases in the costs associated with providing its services and/or changes in regulations or reporting requirements over which the Agent has no control.

Section 5.02 Resignation of Agent - Successor

- a) The Agent may resign as Registrar, Transfer Agent or Paying Agent here under by giving Issuer not less than 60 days' prior written notice of the effective date of such resignation. If at any time the Agent shall cease to be eligible to act under this Agreement in any capacity it shall resign from such capacity in the manner and with the effect hereinafter specified.
- b) Upon receipt of the Agent's notice of resignation in any of its capacities here under, Issuer shall, within 45 days, appoint a successor Registrar, Transfer Agent or Paying Agent, as the case may be. In the event Issuer fails to select a successor, the Agent may apply to a court of competent jurisdiction for the appointment thereof.
- c) The Agent shall use its best efforts to make an orderly transition to its successors in any capacity thereunder by surrendering to its successors upon Issuer order all documents required by the successor for the successor to perform its duties as such. The Agent may retain copies of any such documents as it may deem appropriate.
- d) Upon the effective date of the succession to the duties of the Agent by its successor and the surrender of all funds held by the Agent to its successor, the Agent's successor shall have all rights, duties and obligations which the Agent had thereunder in respect of the capacity or capacities assumed by such successor, and the Agent shall have no further liability with respect thereto.

#### Section 5.03 Limitations on Liability of Agent

- a) The Agent shall be protected in acting upon any written notice, request, waiver, consent, receipt or other paper or document furnished to it, not only as to its due execution and the validity and effectiveness of its provisions, but also as to the trust and acceptability of any information therein contained, which it in good faith believes to be genuine.
- b) The Agent shall not be liable for any error of judgment, or for any act done or step taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except its own gross negligence or willful misconduct.
- c) To the extent permitted by law, the Issuer agrees to indemnify and save harmless the Agent from all losses, liabilities, costs and expenses, including attorney fees and expenses, which may be incurred by it as a result of its acceptance of this Agreement or arising from the performance of its duties hereunder, unless such losses, liabilities, costs and expenses shall have been finally adjudicated to have

resulted from the willful misconduct or gross negligence of the Agent, and such indemnification shall survive its resignation or removal or the termination of this Agreement. In no event shall the Agent be liable for consequential, indirect or special damages, even if it has been advised of the possibility of such damages.

- d) The Agent may consult with, and obtain advice from, legal counsel of its selection in the event any question as to any of the provisions hereof or its duties thereunder shall arise, and it shall incur no liability and shall be fully protected in acting in good faith in accordance with the opinion and instructions of such counsel. The cost of such services shall be born by Issuer.
- e) The Agent shall have no duties except those which are expressly set forth herein, which shall be deemed purely ministerial in nature, and shall under no circumstance be deemed a fiduciary for any of the parties ancillary to this transaction. The Agent shall not be bound by any notice of a claim or demand with respect thereto, or any waiver, modification, amendment, termination or rescission of this Agreement, unless in writing received by it, and, if its duties or liabilities as set forth herein are affected, unless it shall have given its prior written consent thereto.

#### Section 5.04 Cost of Issuance

The proceeds of the 2003 Bonds shall be deposited by the Paying Agent as follows: (a) \$132,996.07 of the proceeds shall be deposited in the 2003 Bonds (State College Facilities) Costs of Issuance Fund.

#### Section 5.05 Renewal of Termination of Agreement

This Agreement shall terminate at the end of the current fiscal year of the Issuer, and thereafter be subject to unilateral and unconditional renewal by the Issuer for each subsequent fiscal year. Should the Issuer elect to terminate this Agreement and appoint a successor Registrar, Transfer Agent and Paying Agent, the Agent reserves the right to charge and be paid by the Issuer for the costs of transferring records, notifying bondholders and for any other duties that need to be performed. These costs are in addition to those specified in Section 5.01.

Executed on the date first above written.

**ISSUER**

Address:

By: J. Thomas Jann

Title: Chairman

Phone:

BANK ONE TRUST COMPANY, N.A.

By: Louise B. Mullins

Title: Vice President



**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES) 2003 SERIES A**

**CERTIFICATE OF WEST VIRGINIA MUNICIPAL BOND COMMISSION**

The undersigned, on behalf of the West Virginia Municipal Bond Commission, (the "MBC") in accordance with a General Resolution adopted by the Board on September 9, 1992 (the "General Resolution"), as amended by the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and collectively with the General Resolution, the Fourth Supplemental Resolution, and the Fifth Supplemental Resolution and the Sixth Supplemental Resolution, the "Resolution"), and a Certificate of Determination dated as of August 1, 2003 (the "Certificate of Determination") with respect to the State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities), 2003 Series A issued by the West Virginia Higher Education Policy Commission (the "Commission)," in the aggregate principal amount of \$22,160,000, (the "2003 Bonds") certifies as follows.

1. The MBC is a commission of the State of West Virginia with the statutory duty, among other things, to serve as fiscal agent for revenue bonds issued by commissions of the State of West Virginia, and is lawfully empowered, pursuant to such laws, to execute and accept the duties contemplated and as provided under the Resolution, and does hereby accept the duties and obligations imposed thereon by the Resolution for the benefit of the Commission, the holders of the 2003 Bonds, MBIA Insurance Corporation, as insurer of the 2003 Bonds (for itself and for the benefit of the holders of the 2003 Bonds), the Paying Agent and the Registrar (collectively, the "Beneficiaries"), and acknowledges and agrees that the Beneficiaries may and will rely on the obligations of MBC accepted and assumed hereby.

2. The person indicated below is now the duly elected, qualified and acting incumbent of his respective office, and, such person, in his official capacity, is authorized to execute and deliver the Escrow Agreement and such other documents as are necessary to complete the financing described in the Resolution for and on behalf of the MBC.

3. Appearing opposite the respective names of the persons indicated below are their true and correct titles and true and correct specimens of their signatures:

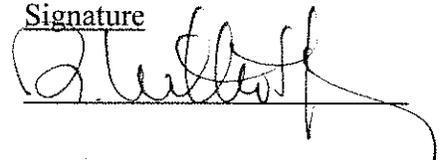
Name

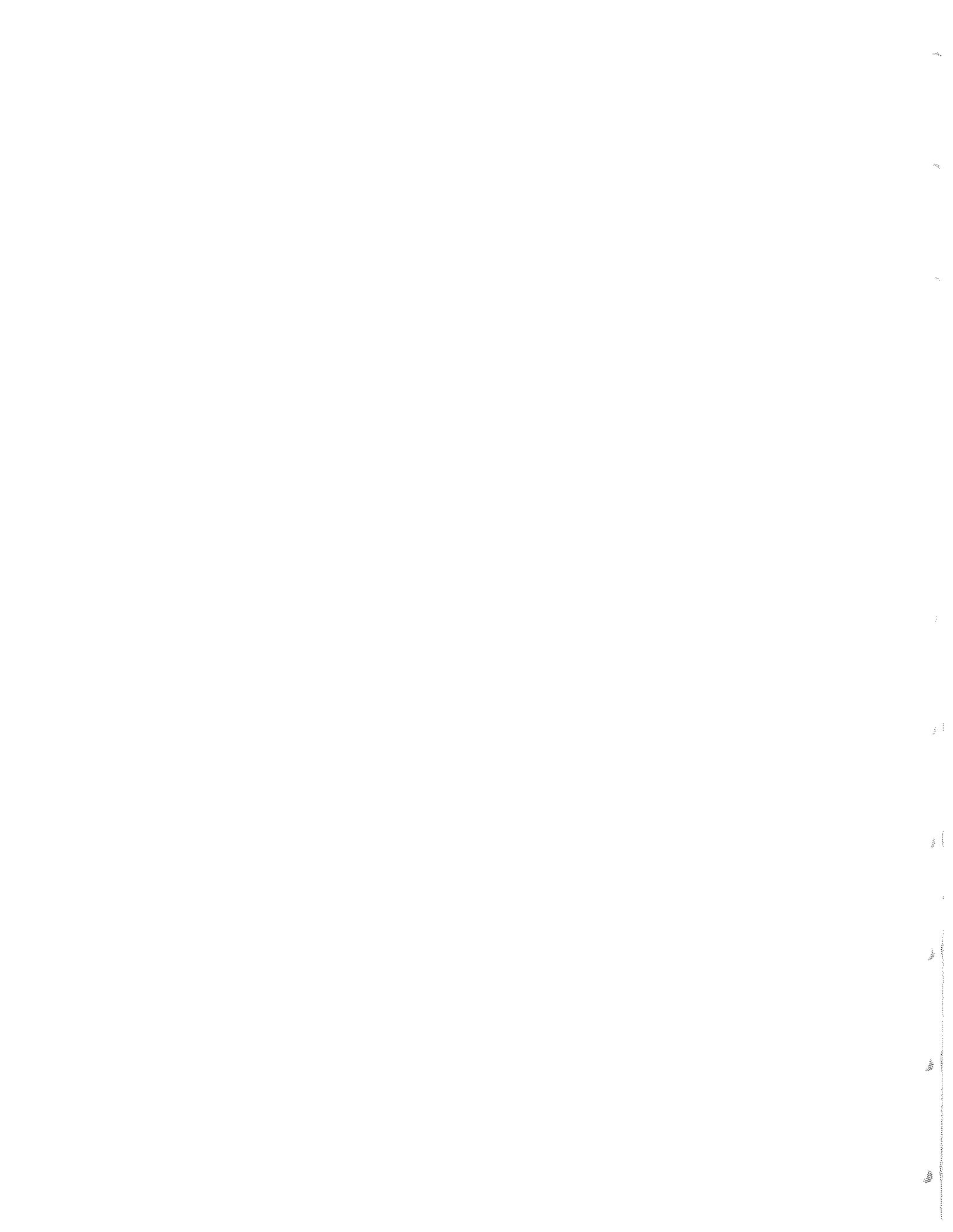
Title

Signature

R. Witter Hallan

Executive Director

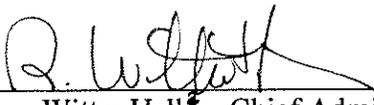




5 Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the Resolution.

IN WITNESS WHEREOF, the West Virginia Municipal Bond Commission has caused this Certificate to be executed by its duly authorized officer this 13<sup>th</sup> day of August, 2003.

West Virginia Municipal Bond Commission

By:  \_\_\_\_\_  
Witter Hallen, Chief Administrative Officer

269946



**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES), 2003 SERIES A**

**ORDER AS TO AUTHENTICATION AND DELIVERY OF BONDS**  
**AND APPLICATION OF BOND PROCEEDS**

August 13, 2003

Bank One, N.A., as Registrar  
707 Virginia Street  
2<sup>nd</sup> Floor  
Charleston, West Virginia 25301  
Attention: Global Corporate Trust Services

Ladies and Gentlemen:

We herewith hand to you, duly executed, the \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds, (College Facilities), 2003 Series A (the "2003 Bonds") issued by the West Virginia Higher Education Policy Commission (the "Commission") authorized to be issued under and pursuant to the Resolution (as hereinafter defined) of the Commission.

As of this date, we have delivered to you:

A. Copies, certified by the Secretary of the Commission of the General Resolution adopted by the Commission on September 9, 1992, the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and together with the General Resolution, the Fourth Supplemental Resolution and the Fifth Supplemental Resolution the "Resolution");

B. A copy of the Certificate of Determination of the Commission dated August 13, 2003;

C. The opinion of Spilman Thomas & Battle, PLLC, bond counsel, dated August 13, 2003, to the effect that (i) the Fourth, Fifth and Sixth Supplemental Resolutions have been duly and lawfully adopted and are in full force and effect; (ii) the General Resolution has been duly and lawfully adopted and is valid and binding upon, and enforceable against the Commission (except to the extent that the enforceability thereof may be limited by the operation

of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); (iii) the General Resolution creates the valid pledge which it purports to create of the Revenues, and moneys and securities on deposit in any of the Funds established thereunder (other than a Purchase Fund, if any) subject to the application thereof to the purposes and on the conditions permitted by the General Resolution; and (iv) upon the execution and delivery thereof, the 2003 Bonds will have been duly and validly authorized and issued in accordance with the General Resolution;

D. A written order of the Commission, dated August 13, 2003, as to the authentication, registration and delivery of the 2003 Bonds and the application of the proceeds thereof, signed by the Chancellor or the Director of Finance and Facilities of the Commission (each, an "Authorized Officer"); and

E. A Certificate of an Authorized Officer of the Commission, dated August 13, 2003, responsive to Section 2.04 of the General Resolution, to the effect that:

(i) all payments into the respective funds and accounts provided for in the General Resolution and any Related Supplemental Resolution respecting Bonds heretofore issued and currently Outstanding have been made in full to the date of issuance and delivery of the 2003 Bonds and no Event of Default under the General Resolution or any Related Supplemental Resolution is now existing; and

(ii) the Revenues of the type set forth in subsection (i) of the definition of "Revenues" in Section 1.02 of the Resolution, collected by the Commission for the last Fiscal Year preceding the date of issuance of the 2003 Bonds have been not less than 120% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2003 Bonds and any Bonds Outstanding as of the date hereof, (other than Bonds to be refunded by the 2003 Bonds) or;

(iii) (a) the Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Commission for the last Fiscal Year preceding the date of issuance of the 2003 Bonds, plus Projected Revenues (as defined below) have been not less than 120% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2003 Bonds and any Bonds Outstanding as of the date hereof, (other than Bonds to be refunded by the 2003 Bonds); (b) the Revenues of the type set forth in subsection (i) of the definition "Revenues" in Section 1.02 of the Resolution collected by the Commission for the last Fiscal Year preceding the date of issuance of the 2003 Bonds have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2003 Bonds and any Bonds Outstanding as of the date hereof, (other than Bonds to be refunded by the 2003 Bonds); and (c) Projected Revenues have not been greater than 20% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2003 Bonds and any Bonds Outstanding as of the date hereof, (other than Bonds to be refunded by the 2003 Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or

which were not pledged under the Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of Bonds; and

No further documents are required by Section 2.07 of the Fourth Supplemental Resolution to be delivered to the Trustee.

The proceeds of the 2003 Bonds shall be deposited by the West Virginia Municipal Bond Commission (the "Bond Commission") as follows: (a) \$26,543.54 of the proceeds, representing accrued interest on the 2003 Bonds from their date to the date of delivery, shall be deposited in the 2003 Bonds (State College Facilities) Interest Account, and the balance of the proceeds shall be deposited in the 2003 Bonds (State College Facilities) Escrow Fund (the "Escrow Fund") and applied to currently refund all Outstanding 1992 Bonds.

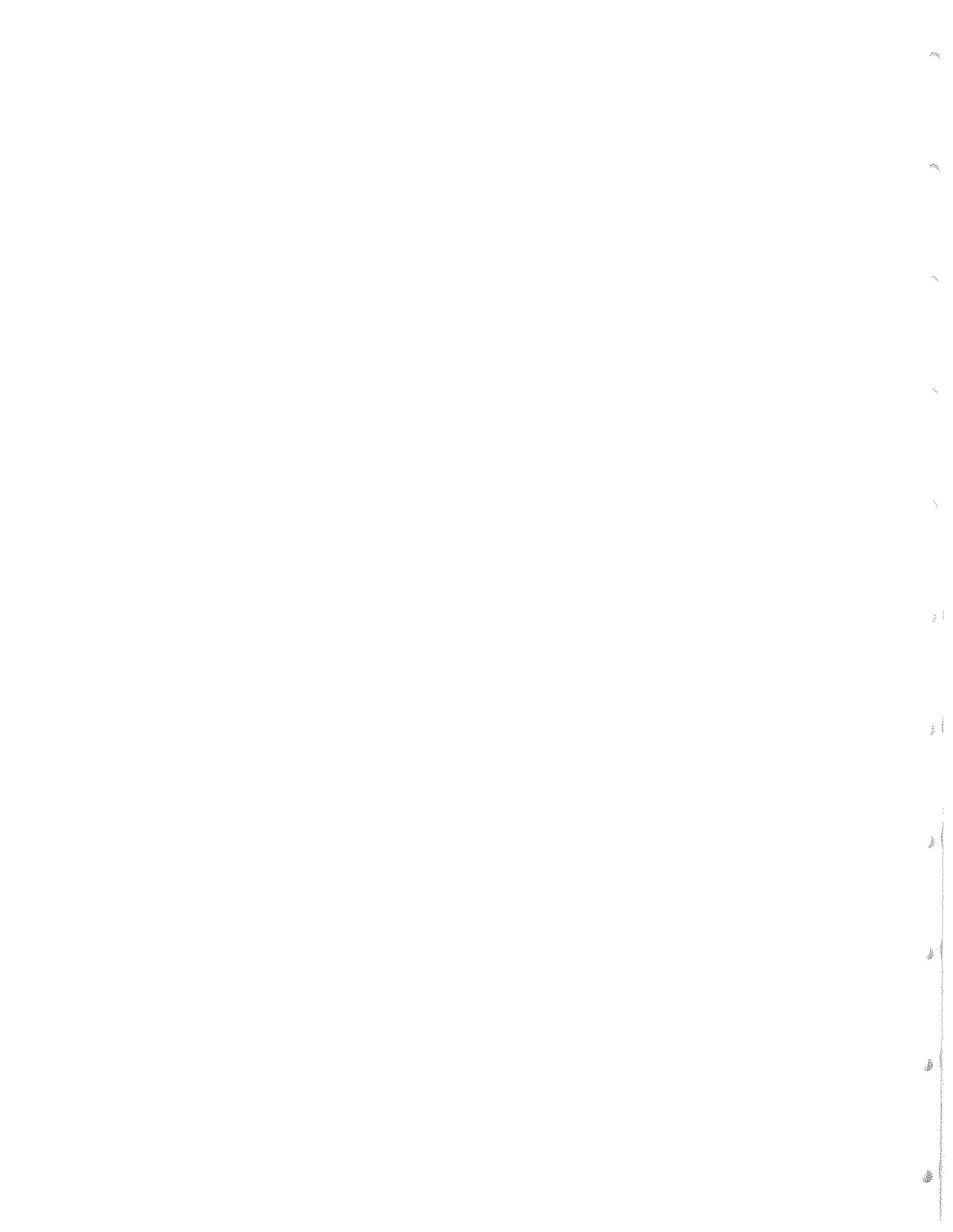
The Bond Commission shall transfer the sum of \$109,416.87 held to pay debt service on the Bonds to be refunded into the Escrow Fund.

\$132,996.07 of the proceeds of the 2003 Bonds shall be deposited with the Paying Agent in the 2003 Bonds (State College Facilities) Costs of Issuance Fund

\$65,000.00 of the proceeds shall be paid to MBIA Insurance Corporation for the Bond Insurance Policy by Citigroup Global Markets

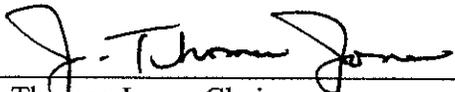
Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Resolution.

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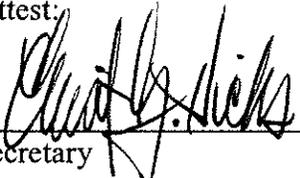


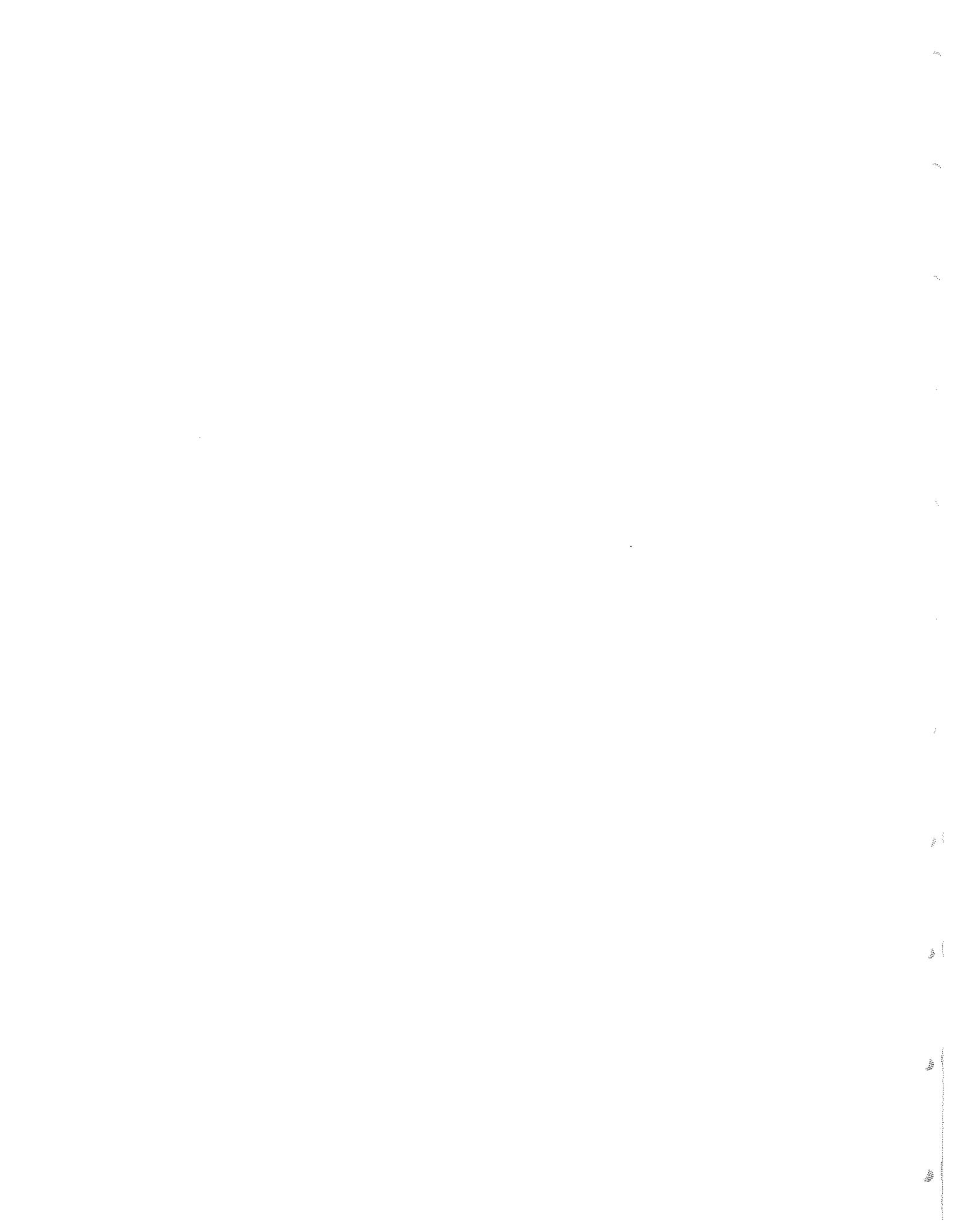
You are hereby requested and authorized to authenticate and deliver the 2003 Bonds, on behalf of the Commission, to the Depository Trust Company for the benefit of Citigroup Global Markets Inc., Ferris, Baker Watts, Inc., and Crews & Associates, Inc. as Original Purchasers of the 2003 Bonds.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By   
J. Thomas Jones, Chairman

Attest:

  
Secretary



**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES), 2003 SERIES A**

**RECEIPT FOR BONDS AND CONSENT TO AMENDMENTS**

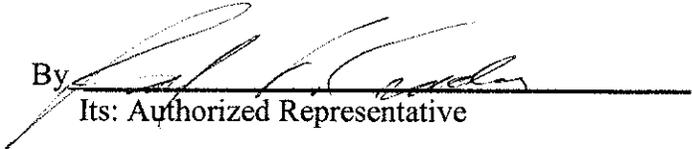
On the date hereof, the undersigned, on behalf of itself, Ferris, Baker Watts, Incorporated and Crews & Associates, Inc., acknowledges receipt of the \$22,160,000 in aggregate principal amount of Revenue Refunding Bonds (College Facilities), 2003 Series A (the "2003 Bonds"), issued by the West Virginia Higher Education Policy Commission (the "Commission").

The 2003 Bonds are issued by the Commission pursuant to the General Resolution adopted by the Commission on September 9, 1992, as amended by the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and collectively with the General Resolution, the Fourth Supplemental Resolution, and the Fifth Supplemental Resolution the "Resolution"). The 2003 Bonds are dated August 1, 2003, bear interest from said date payable semiannually on October 1 and April 1 of each year until maturity or prior redemption, commencing October 1, 2003; are in the form of one bond for each stated maturity; and are numbered from R-1 consecutively upward in order of authentication and are registered in the name of Cede & Co., as nominee for The Depository Trust Company.

By accepting the 2003 Bonds, we hereby consent to the amendments to the General Resolution adopted by the Commission in its Fourth Supplemental Resolution, its Fifth Supplemental Resolution and its Sixth Supplemental Resolution.

Dated this 13<sup>th</sup> day of August, 2003.

CITIGROUP GLOBAL MARKETS, INC., on  
behalf of itself, FERRIS, BAKER WATTS,  
INCORPORATED and  
CREWS & ASSOCIATES, INC.

By   
Its: Authorized Representative



**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES), 2003 SERIES A**

**CERTIFICATE OF DELIVERY AND PAYMENT**

I, J. Thomas Jones, Chairman of the West Virginia Higher Education Policy Commission (the "Commission"), hereby certify as follows:

1. On the date hereof, the Commission has caused \$22,160,000 in aggregate principal amount of State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A (the "2003 Bonds") to be delivered to the Depository Trust Company on behalf of Citigroup Global Markets Inc., Ferris, Baker Watts, Inc., and Crews & Associates, Inc., upon receipt of payment of the purchase price of and accrued interest on such 2003 Bonds as follows:

Par	\$22,160,000.00
Plus: Accrued Interest	\$26,543.54
Plus: Net Premium	\$781,741.40
Less: Underwriter's Discount	<u>\$78,587.20</u>
 Amount this day received	 \$22,889,697.74

The proceeds of the 2003 Bonds shall be deposited with the West Virginia Municipal Bond Commission as follows: (a) \$26,543.54 of the proceeds, representing accrued interest on the 2003 Bonds from their date to the date of delivery, shall be deposited in the 2003 Bonds (State College Facilities) Interest Account, and (b) the balance of the proceeds shall be deposited in the 2003 Bonds (State College Facilities) Escrow Fund and applied to currently refund all Outstanding 1992 Bonds.

The proceeds of the 2003 Bonds shall be deposited by the Paying Agent as follows: (a) \$132,996.07 of the proceeds shall be deposited in the 2003 Bonds (State College Facilities) Costs of Issuance Fund.

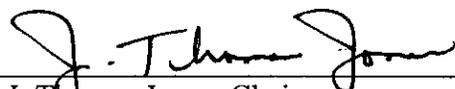
\$65,000.00 of the proceeds shall be paid to MBIA Insurance Corporation for the Bond Insurance Policy by Citigroup Global Markets.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the General Resolution adopted by the Commission on September 9, 1992, the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and

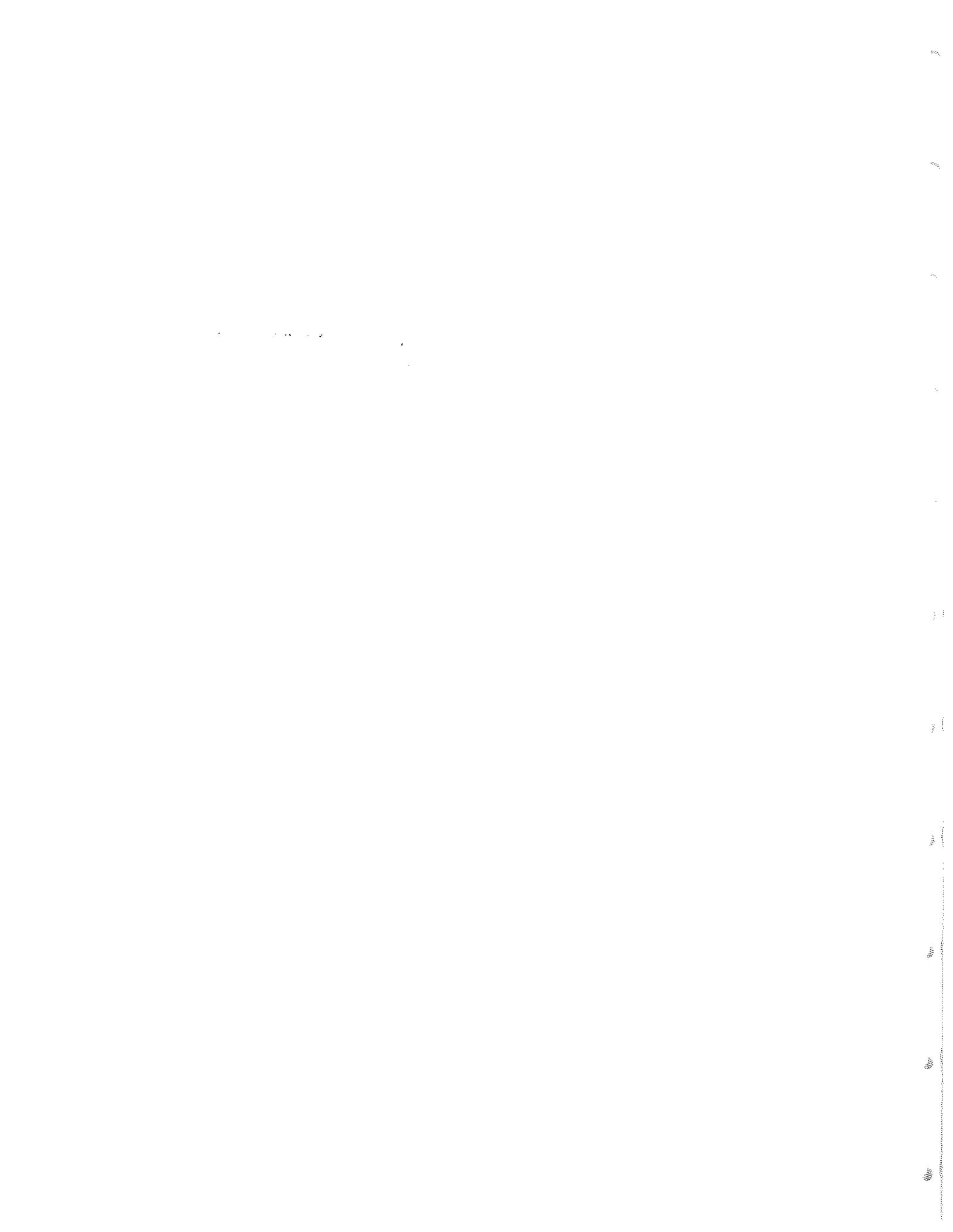
together with the General Resolution, the Fourth Supplemental Resolution and the Fifth Supplemental Resolution the "Resolution").

2003. IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of August,

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By:   
\_\_\_\_\_  
J. Thomas Jones, Chairman

266182



**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES), 2003 SERIES A**

**CERTIFICATE REGARDING ADDITIONAL BONDS**

The undersigned, J. Thomas Jones, Chairman of the West Virginia Higher Education Policy Commission (the "Commission"), hereby certifies, for and on behalf of the Commission, to the West Virginia Municipal Bond Commission, as fiscal agent and Bank One, N.A., as Paying Agent (the "Paying Agent") for the State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities), 2003 Series A (the "2003 Bonds"), pursuant to the General Resolution adopted by the Commission on September 9, 1992, as amended by the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution"), and the Certificate of Determination, dated August 13, 2003, as follows:

(i) all payments into the respective funds and accounts provided for in the General Resolution and any Related Supplemental Resolution respecting Bonds heretofore issued and currently Outstanding have been made in full to the date of issuance and delivery of the 2003 Bonds and no Event of Default under the General Resolution or any Related Supplemental Resolution is now existing; and

(ii) the Revenues of the type set forth in subsection (i) of the definition of "Revenues" in Section 1.02 of the Resolution, collected by the Commission for the last Fiscal Year preceding the date of issuance of the 2003 Bonds have been not less than 120% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2003 Bonds and any Bonds Outstanding as of the date hereof, (other than Bonds to be refunded by the 2003 Bonds) or;

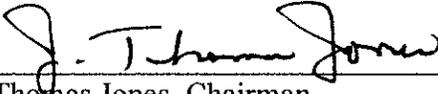
(iii) (a) the Revenues (excluding proceeds of any Bonds and earnings thereon) collected by the Commission for the last Fiscal Year preceding the date of issuance of the 2003 Bonds, plus Projected Revenues (as defined below) have been not less than 120% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2003 Bonds and any Bonds Outstanding as of the date hereof, (other than Bonds to be refunded by the 2003 Bonds); (b) the Revenues of the type set forth in subsection (i) of the definition "Revenues" in Section 1.02 of the Resolution collected by the Commission for the last Fiscal Year preceding the date of issuance of the 2003 Bonds have been not less than 100% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2003 Bonds and any Bonds Outstanding as of the date hereof, (other than Bonds

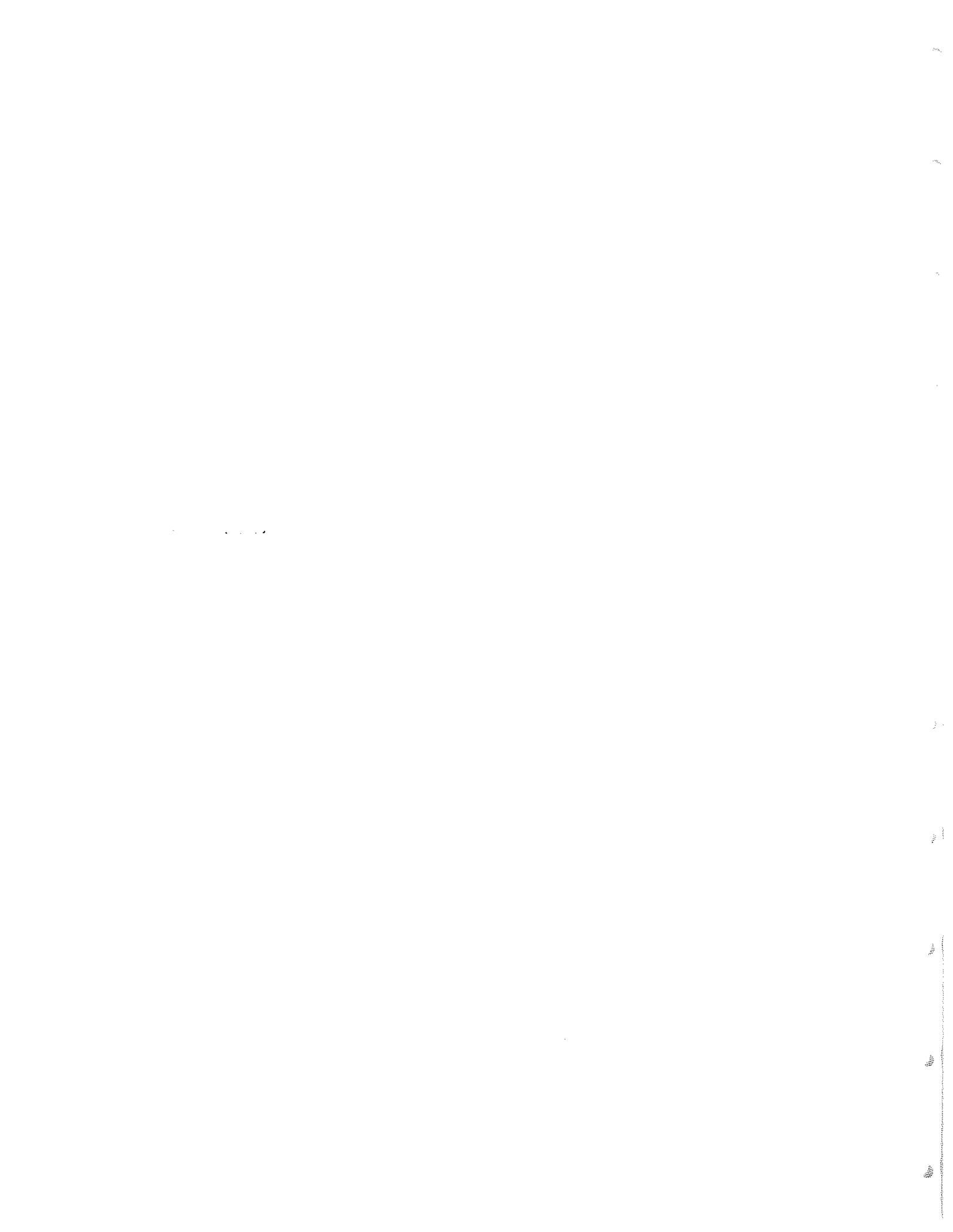


to be refunded by the 2003 Bonds); and (c) Projected Revenues have not been greater than 20% of the largest amount of Debt Service due in any Fiscal Year hereafter on the 2003 Bonds and any Bonds Outstanding as of the date hereof, (other than Bonds to be refunded by the 2003 Bonds). For the purposes of this subsection (iii), Projected Revenues may include any Revenues which were not in effect or which were not pledged under the Resolution during the last Fiscal Year, but which have been adopted, charged and pledged prior to or contemporaneously with the issuance of Bonds.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms Resolution.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By:   
J. Thomas Jones, Chairman



S22,160,000  
STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(COLLEGE FACILITIES), 2003 SERIES A

CERTIFICATE OF ATTORNEY GENERAL REGARDING NO LITIGATION

The undersigned is the duly designated representative for the Attorney General for the State of West Virginia. In connection with the issuance by the West Virginia Higher Education Policy Commission (the "Commission") of its State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities), 2003 Series A (the "2003 Bonds"), and the offering of the 2003 Bonds pursuant to an Official Statement dated ~~August~~<sup>July</sup> 31, 2003. I have reviewed the information contained in such Official Statement attached to this Certificate as Exhibit A. I hereby certify that there is no pending or, to my knowledge, threatened litigation against the Commission, which is not disclosed in the Official Statement and which would materially and adversely affect the issuance, validity and enforceability of the 2003 Bonds or the security therefor.

Dated this 13<sup>th</sup> day of August, 2003.

By:

  
Designated Representative for the  
Attorney General for the State of  
West Virginia *Deputy Attorney  
General*

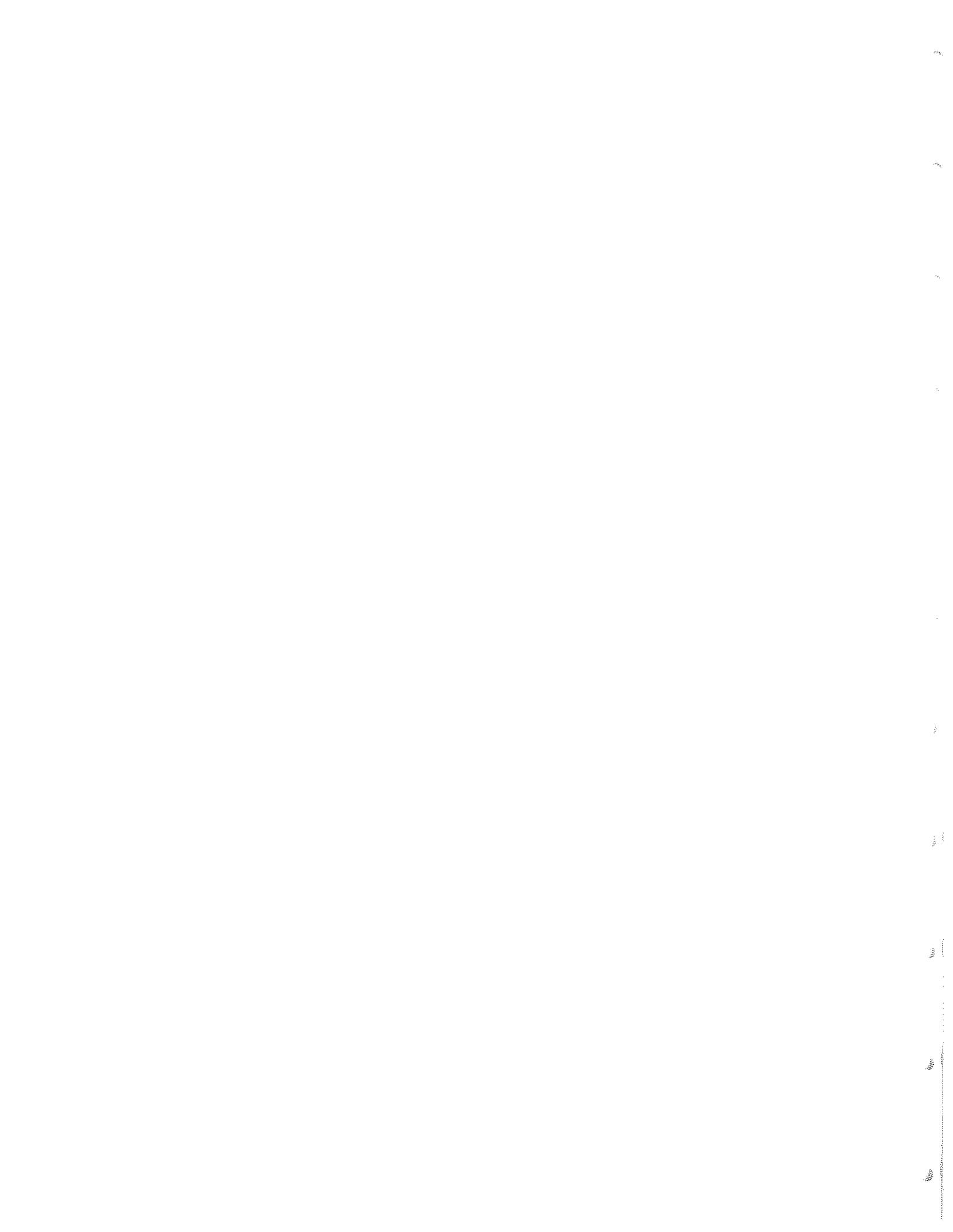
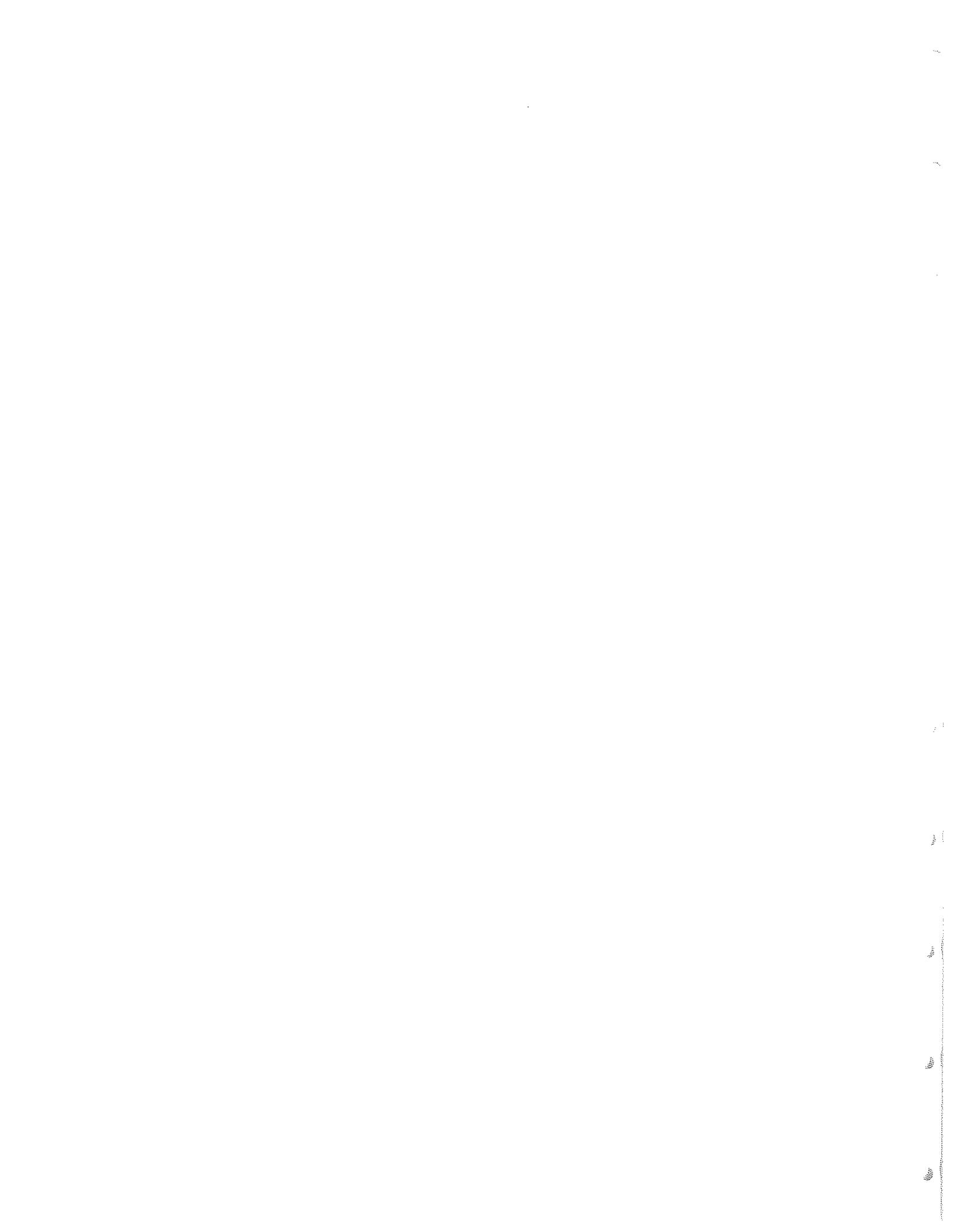


Exhibit A

Official Statement

(Please refer to Tab No. 13)



**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES), 2003 SERIES A**

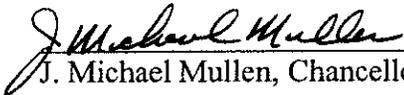
**SPECIMEN SIGNATURES OF THE AUTHORIZED OFFICERS**  
**RESPONSIVE TO SECTION 1.03 OF THE**  
**FOURTH SUPPLEMENTAL RESOLUTION**

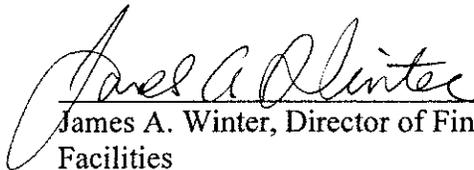
Bank One, N.A., Registrar  
707 Virginia Street  
2<sup>nd</sup> Floor  
Charleston, West Virginia 25301  
Attention: Global Corporate Trust Services

West Virginia Municipal Bond Commission  
812 Quarrier Street  
Suite 300  
Charleston, WV 24301

Ladies and Gentlemen:

Pursuant to Section 1.03 of the Fourth Supplemental Resolution of the Higher Education Policy Commission (the "Commission") adopted March 17, 2003, the specimen signatures of the Authorized Officers of the Commission are as follows:

  
\_\_\_\_\_  
J. Michael Mullen, Chancellor

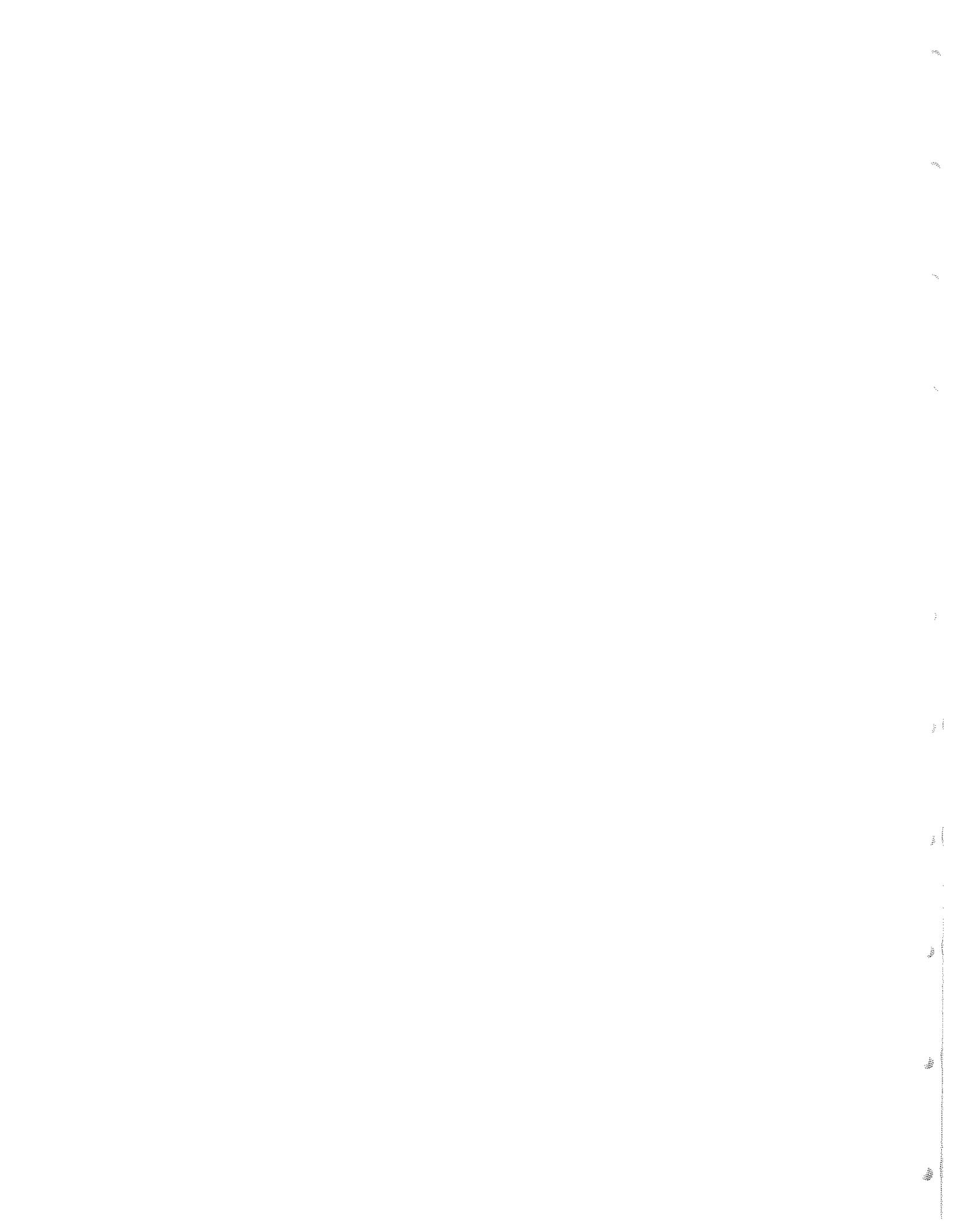
  
\_\_\_\_\_  
James A. Winter, Director of Finance and  
Facilities

The Commission has designated the above-named persons to act on behalf of the Commission with respect to the 2003 Bonds. The Paying Agent, and Registrar are authorized to accept and honor all requests for disbursements, directions or notices signed by either of the above-named persons.

Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the General Resolution adopted by the Commission on September 9, 1992, the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission

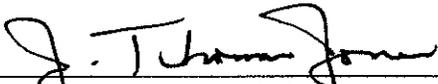


adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and together with the General Resolution, the Fourth Supplemental Resolution and the Fifth Supplemental Resolution the "Resolution").

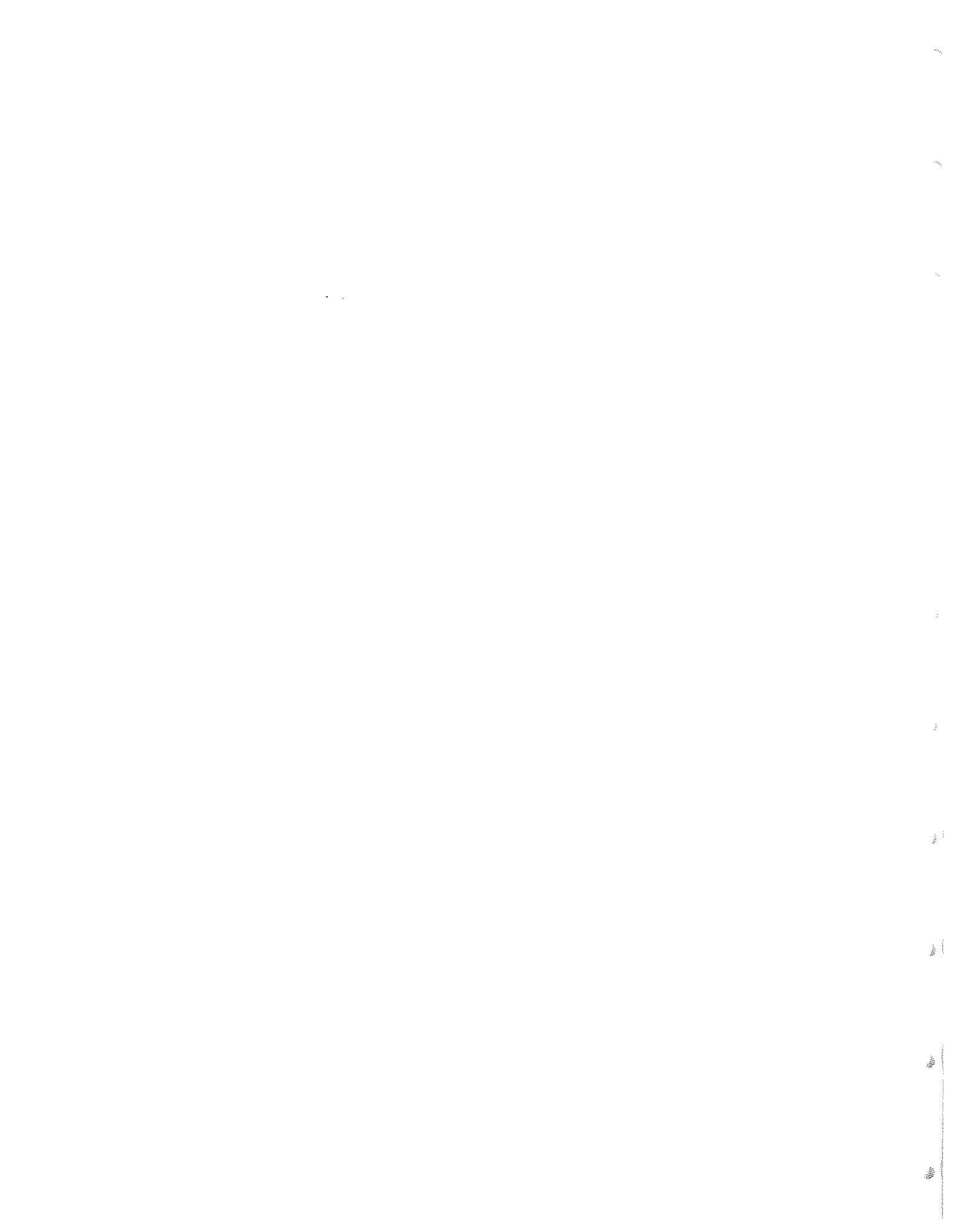


WITNESS my signature this 13<sup>th</sup> day of August, 2003.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By:   
\_\_\_\_\_  
J. Thomas Jones, Chairman

266347



**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS**  
**(COLLEGE FACILITIES), 2003 SERIES A**

**CERTIFICATE OF MUNICIPAL BOND COMMISSION AND BANK ONE, N.A.,**  
**AS TO ACKNOWLEDGEMENT OF RECEIPT OF BOND PROCEEDS**

On the date hereof, the undersigned, on behalf of the Municipal Bond Commission and Bank One, N.A., acknowledges receipt of the \$22,160,000 in aggregate principal amount of Revenue Refunding Bonds (College Facilities), 2003 Series A (the "2003 Bonds"), issued by the West Virginia Higher Education Policy Commission (the "Commission").

A portion of the proceeds of the 2003 Bonds shall be deposited with the West Virginia Municipal Bond Commission, as fiscal agent as follows: (a) \$26,543.54 of the proceeds, representing accrued interest on the 2003 Bonds from their date to the date of delivery, shall be deposited in the 2003 Bonds (State College Facilities) Interest Account, and (b) the balance of the proceeds shall be deposited in the 2003 Bonds (State College Facilities) Escrow Fund and applied to currently refund all Outstanding 1992 Bonds.

A portion of the proceeds of the 2003 Bonds shall be deposited by Bank One, N.A., as the paying agent (the "Paying Agent") as follows: (a) \$132,996.07 of the proceeds shall be deposited in the 2003 Bonds (State College Facilities) Costs of Issuance Fund.

THE WEST VIRGINIA MUNICIPAL  
BOND COMMISSION

By:   
R. Witter Hallan, Executive Director

BANK ONE, N.A., Registrar

By:   
Lorene B. Mullins, Vice President



---

NOTICE OF REDEMPTION TO THE HOLDERS OF  
\$46,825,000  
STATE COLLEGE SYSTEM REVENUE REFUNDING BONDS  
SERIES 1992

NOTICE IS HEREBY GIVEN pursuant to the applicable provisions of the governing documents of the above captioned Bonds (the "Bonds"), issued by the Higher Education Policy Commission, as successor to the Board of Directors of the State College System (the "Issuer") on November 1, 1992, that the Bonds herein described are called for redemption prior to their maturity and will be redeemed on October 1, 2003, (the "Redemption Date"). On the Redemption Date, the redemption price indicated below will become due and payable. Redemption will be made by payment of the principal amount of each such Bond, together with interest accrued to the Redemption Date plus applicable premium, if any. From and after October 1, 2003, interest on such Bonds shall cease to accrue and any lien or interest in or to any pledge of security or collateral for such Bonds hereby called shall also cease and become null on the Redemption Date.

The following Bonds will be redeemed and paid upon presentation to the office(s) shown below.

<u>CUSIP Number*</u>	<u>Maturity Date (April 1)</u>	<u>Principal Amount to be Refunded</u>	<u>Interest Rate</u>	<u>Price</u>
956691DW7	2004	\$3,065,000	5.750%	102%
956691DX5	2005	\$2,150,000	5.875%	102%
956691DY3	2006	\$2,245,000	6.000%	102%
956691DZ0	2007	\$2,340,000	6.000%	102%
956691EA4	2012	\$11,985,000	6.000%	102%

Payment of said Bonds called for redemption will be made upon presentation and surrender of such Bonds.

Called Bonds should be presented as follows: Bank One, N.A.  
Corporate Trust Department  
707 Virginia Street, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Registered or certified insured mail is suggested when submitting called Bonds for payment.

When inquiring about this redemption, please have the Bond number available. Please inform the customer service representative of the CUSIP number(s) of the affected Bonds. Customer Service is 1-800-346-5153.

**By: Bank One, N.A.**  
*as Paying Agent*

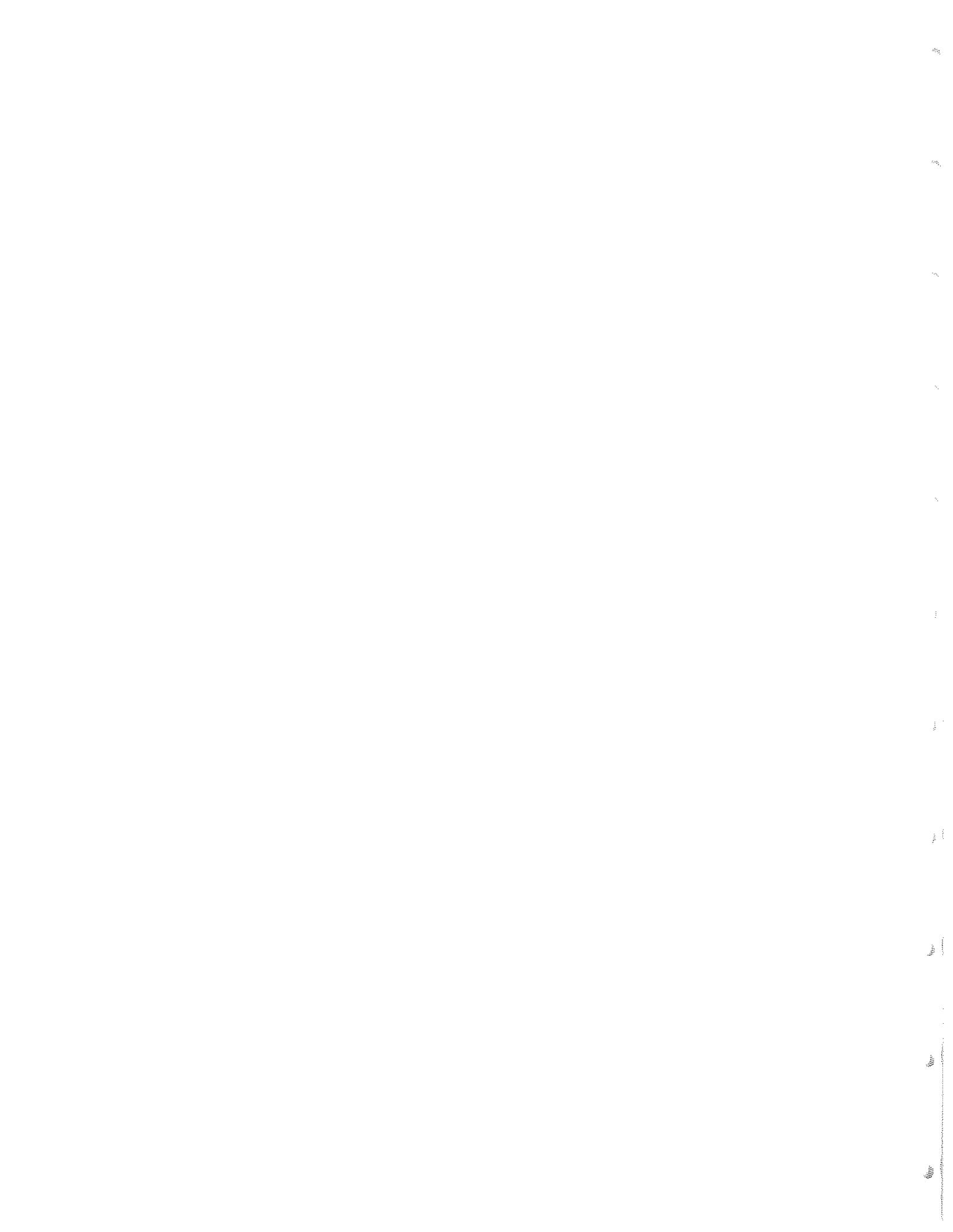
Dated: \_\_\_\_\_, 20\_\_

[BANK ONE, N.A. LOGO]

**NOTICE**

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Interest and Dividend Tax Compliance Act of 1983 unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your securities.

*\*The Issuer and Paying Agent shall not be responsible for the use of the CUSIP number(s) selected, nor is any representation made as to their correctness indicated in the notice nor as printed on any Bond. They are included solely for the convenience of the holders.*





SPILMAN THOMAS & BATTLE, PLLC

ATTORNEYS AT LAW

August 13, 2003

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, West Virginia 25301

Bank One, N.A., Registrar and Paying Agent  
707 Virginia Street  
2<sup>nd</sup> Floor  
Charleston, West Virginia 25301

Municipal Bond Commission  
812 Quarrier Street, Suite 300  
Charleston, WV 25301

MBIA Insurance Corporation  
113 King Street  
Armonk, New York 10504

\$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities) 2003  
Series A

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the West Virginia Higher Education Policy Commission (the "Commission") of its \$22,160,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A, dated as of August 1, 2003 (the "2003 Bonds"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion. We have also examined an unauthenticated specimen Bond.

The Commission, a commission of the State of West Virginia (the "State"), is the successor to the Board of Directors of the State College System (the "Board") and is empowered and authorized to issue bonds pursuant to Chapter 18B, Articles 1, 1B, 2, 3 and 10, Chapter 18, Article 12B and Chapter 13, Article 2G of the Code of West Virginia, 1931, as amended (collectively, the "Act"), among other things, and in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in the Act. The 2003 Bonds are

issued pursuant to the Act, and other applicable laws, and pursuant to the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution"), all amending the General Resolution of the Board adopted September 9, 1992 (the "General Resolution") (the General Resolution, as amended and supplemented to the date of this opinion, including but not limited to the amendments and supplements made by the Fourth, Fifth and Sixth Supplemental Resolutions, being collectively referred to herein as the "Resolution"). Proceeds of the 2003 Bonds are to provide moneys which, together with other moneys available to the Commission, are to be used to currently refund and defease all outstanding 1992 Bonds of the Board and to pay the costs associated with the issuance of the 2003 Bonds, as set forth in the Indenture. Under the Resolution, the West Virginia Municipal Bond Commission, an agency of the State of West Virginia, is responsible for holding the funds established with respect to the 2003 Bonds. Bank One, N.A., will act as Registrar and Paying Agent for the 2003 Bonds.

The Commission has also entered into a Tax Compliance Certificate, dated as of the date hereof (the "Tax Certificate"), which, among other things, sets forth restrictions on the investment and expenditure of the 2003 Bonds proceeds and earnings thereon, to ensure that the requirements of the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto (collectively, the "Code"), necessary to establish and maintain the excludability from gross income for federal income tax purposes of the interest on the 2003 Bonds, are and will continue to be met.

We have not been engaged or undertaken to review the accuracy, completeness or sufficiency of the Official Statement or other offering material relating to the 2003 Bonds (except to the extent, if any, stated in the Official Statement) and we express no opinion relating thereto.

As to questions of fact material to our opinion, we have relied upon the representations of the Commission and other entities contained in the herein-described documents and certifications furnished to us by or on behalf of the Commission, without undertaking to verify the same by independent investigation.

Capitalized terms used herein, but not otherwise defined shall have the meaning given such term in the Resolution.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Commission is a commission of the State with power to adopt the Resolution, to execute and deliver the Indenture and the Tax Certificate and to perform the agreements on its part contained therein and to issue the 2003 Bonds.

2. The Resolution has been duly adopted by the Commission, is in full force and effect, and is valid and binding upon the Commission and enforceable against the

Commission in accordance with its terms (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors).

3. The Certificate of Determination, the Insurance Agreement and the Tax Certificate have been duly authorized, executed and delivered by the Commission and, assuming due authorization, execution and delivery by the other parties thereto, if any, constitute valid and binding agreements of the Commission, enforceable against the Commission in accordance with the respective terms thereof.

4. The Resolution creates the valid pledge which it purports to create of the Revenues (as defined in the Resolution), and other funds and accounts pledged under the Resolution, subject to the terms thereof.

5. The 2003 Bonds have been duly authorized, executed and delivered by the Commission and, assuming proper authentication, are valid and binding special obligations of the Commission, payable solely from the sources provided therefor in the Resolution.

---

6. In our opinion, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the 2003 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. We are of the further opinion that interest on the 2003 Bonds is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although we observe that such interest is included in adjusted current earnings when calculating corporate alternative minimum taxable income.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the 2003 Bonds. The Commission has covenanted in the Resolution and the Tax Certificate to comply with certain restrictions designed to insure that interest on the 2003 Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the 2003 Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the 2003 Bonds. We assume compliance with these covenants. We have not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the 2003 Bonds may adversely affect the value of, or the tax status of interest on, the 2003 Bonds.

Certain requirements and procedures contained or referred to in the Resolution, the Certificate of Determination, the Tax Certificate, and other relevant documents may be changed and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. We express no opinion as to any Bond or the interest thereon if any such change occurs or action is taken or omitted upon the advice or approval of bond counsel other than this firm.

7. Under the Act, the 2003 Bonds shall be exempt from all state, county, and municipal taxes, and the exception shall include income, inheritance and property taxes.

The rights of the holders of the 2003 Bonds and the enforceability of the 2003 Bonds, the Resolution, the Tax Certificate and the liens and pledges set forth therein may be subject to and limited by bankruptcy laws and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that the enforcement thereof may also be subject to general principles of equity and to the exercise of judicial discretion.

Very truly yours,

*Spilman Thomas & Battle, PLLC*

Spilman Thomas & Battle, PLLC



SPILMAN THOMAS & BATTLE, PLLC

ATTORNEYS AT LAW

August 13, 2003

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, West Virginia 25301

Citigroup Global Markets, Inc.  
390 Greenwich Street, 2<sup>nd</sup> Floor  
New York, NY 10013

Crews & Associates, Inc.  
300 Summers Street, Suite 930  
Charleston, West Virginia 25301

Ferris, Baker Watts, Incorporated  
100 Laidley Tower  
Charleston, West Virginia 25301

Re: \$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities) 2003  
Series A

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance of the above-referenced Bonds (the "2003 Bonds") of the West Virginia Higher Education Policy Commission (the "Commission"), issued pursuant to the Constitution and laws of the State, including particularly Chapter 18B, Article 1B, Chapter 18, Article 12B and Chapter 13, Article 2G of the Code of West Virginia, 1931, as amended (collectively, the "Act") and pursuant to the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution"), all amending the General Resolution of the Commission adopted September 9, 1992, (hereinafter referred to collectively as the "Resolution"). We are herewith rendering our final approving opinion of even date in connection with the authorization, issuance and delivery of the 2003 Bonds to Citigroup Global Markets, Inc., Ferris, Baker Watts, Inc., and Crews & Associates, Inc., as the Underwriters named in the Bond Purchase Agreement dated as of July 31, 2003 (the "Bond Purchase Agreement"), relating to the 2003 Bonds.

Spilman Center | 300 Kanawha Boulevard, East | Post Office Box 273 | Charleston, West Virginia 25321-0273  
www.spilmanlaw.com | 304.340.3800 | 304.340.3801 fax

Charleston

Morgantown

Parkersburg

Weirton

West Virginia Higher Education Policy Commission  
Citigroup Global Markets Inc.  
Ferris, Baker Watts, Inc.  
Crews & Associates, Inc.  
August 13, 2003  
Page 2

In rendering this opinion, we reviewed records of the acts taken by the Commission in connection with the authorization, sale and issuance of the 2003 Bonds, including a record of proceedings of the Commission relating to the authorization, execution and delivery of the Bond Purchase Agreement, and the Certificate of Determination, dated as of August 1, 2003, executed by the Chairman of the Commission, and we were present at various meetings for the preparation of various parts of the Official Statement relating to the 2003 Bonds, dated and executed by the Chairman of the Commission on August 13, 2003 (the "Official Statement").

Based upon the foregoing, we are of the opinion that:

1. The Bond Purchase Agreement has been duly authorized, executed and delivered by, and (assuming due authorization, execution and delivery by the Underwriters and that it is a binding agreement of the Underwriters in accordance with its terms) constitutes a binding agreement in accordance with its terms of the Commission.
2. The 2003 Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended.
3. The Official Statement has been duly approved, executed and delivered by the Commission.
4. The statements contained in the Official Statement under the caption "Tax Matters" are true and accurate in all material respects and present a fair and accurate summary and description of the matters summarized and described under such caption.
5. The statements contained in the Official Statement under the captions "Introductory Statement," "The Bonds," "Security for the Bonds," (excepting matters as to Depository Trust Company and the Book-Entry-Only System) "Tax Matters," "Amendments to the Resolution," Appendix E – Summary of Certain Provisions of the Principal Documents," and "Appendix F – Proposed Form of Opinion of Bond Counsel" do not contain any untrue statement of a material fact or omit to state a material fact necessary to make such statements, in light of the circumstances under which they were made, not misleading in any material respect.

West Virginia Higher Education Policy Commission  
Citigroup Global Markets Inc.  
Ferris, Baker Watts, Inc.  
Crews & Associates, Inc.  
August 13, 2003  
Page 3

6. The 2003 Bonds are exempt from registration pursuant to the Securities Act of 1933.

Very truly yours,

*Spilman Thomas & Battle, PLLC*

Spilman Thomas & Battle, PLLC





WEST VIRGINIA  
H I G H E R  
E D U C A T I O N  
P O L I C Y  
C O M M I S S I O N

J. THOMAS JONES  
CHAIR

J. MICHAEL MULLEN  
CHANCELLOR

August 13, 2003

Spilman Thomas & Battle, PLLC  
300 Kanawha Blvd, East  
Charleston, WV 25301

WV Higher Education Policy Commission  
1018 Kanawha Blvd, East, Suite 700  
Charleston, WV 25301

MBIA Insurance Corporation  
113 King Street  
Armonk, NY 10504

Citigroup Global Markets Inc.  
390 Greenwich Street, 2<sup>nd</sup> Floor  
New York, NY 10013

Ferris, Baker Watts, Inc.  
100 Laidley Towers  
Charleston, WV 25301

Crews & Associates, Inc.  
300 Summers Street, Suite 930  
Charleston, WV 25301

Re: \$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities) 2003  
Series A

Ladies and Gentlemen:

I have acted as Counsel to the West Virginia Higher Education Policy Commission (the "Commission") in connection with the sale by the Commission of the above-captioned bonds (the "2003 Bonds") to Citigroup Capital Markets Inc., Ferris, Baker Watts, Inc., and Crews & Associates, Inc. (the "Underwriters"), pursuant to a Bond Purchase Agreement dated July 31, 2003 (the "Bond Purchase Agreement") between the Commission and the Underwriters. The Bonds are being issued pursuant to a General Resolution adopted by the Commission on September 9, 1992 (the "General Resolution"), as amended by the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution" and collectively with the General Resolution, the Fourth Supplemental Resolution, and the Fifth Supplemental Resolution, the "Resolution").

I hereby state no litigation is pending or, to my knowledge, threatened (a) to restrain or enjoin the issuance or delivery of any of the 2003 Bonds or the collection of Revenues pledged under the Resolution and the Bond Indenture, (b) in any way contesting the power or the authority of the Commission for the issuance of the 2003 Bonds or the validity of the 2003 Bonds, or the Bond



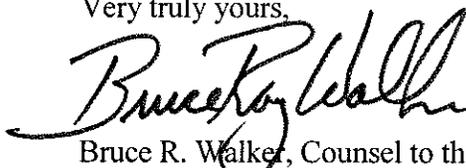
Documents, (c) in any way contesting the existence or powers of the Commission relating to the issuance of the 2003 Bonds.

To the best of my knowledge, no event affecting the Commission has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purpose for which it is to be used or that is necessary to disclose therein in order to make the statements and information therein with respect to the Commission not misleading in any material respect.

The Commission is a body corporate and politic (constituting a governmental agency of the State and existing under the provisions of the Act), pursuant to which the Commission has full legal right, power and authority to enter into the Bond Documents and each constitutes the legal, valid and binding agreement of the Commission enforceable in accordance with its respective terms (subject to bankruptcy, insolvency and other laws affecting the rights of creditors generally and to general principles of equity), and compliance with the provisions of each hereof will not conflict with or constitute a violation or breach of or default under any existing law or administrative rule or regulation, or any court order or decree or any agreement, contract or other instrument, to which the Commission is party or otherwise subject or bound.

The Official Statement has been duly approved, executed and delivered by the Commission and the statements contained in the Official Statement under the captions "The Commission," "Registration and Other Student Fees," "Capital Budgeting and Planning," "State Appropriations for Higher Education," "Student Enrollment," "Plan of Refunding," "Litigation," and "Continuing Disclosure" (as such information pertains to the Commission) do not contain any untrue statement of a material fact or omit to state a material fact necessary to make such statements, in light of the circumstances under which they were made, not misleading in any material respect.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bruce R. Walker". The signature is fluid and cursive, with a large initial "B" and "W".

Bruce R. Walker, Counsel to the West  
Virginia Higher Education Policy  
Commission



LAW OFFICES

**GOODWIN & GOODWIN, LLP**

300 SUMMERS STREET, SUITE 1500  
CHARLESTON, WEST VIRGINIA 25301-1678

P. O. Box 2107  
CHARLESTON, WEST VIRGINIA 25328-2107

TELEPHONE (304) 346-7000  
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[www.goodwingoodwin.com](http://www.goodwingoodwin.com)

201 THIRD STREET  
PARKERSBURG, WEST VIRGINIA 26101  
(304) 485-2345

P.O. Box 349  
500 CHURCH STREET  
RIPLEY, WEST VIRGINIA 25271  
(304) 372-2651

August 13, 2003

Citigroup Global Services Inc.  
390 Greenwich Street, 2<sup>nd</sup> Floor  
New York, New York 10013

Ferris, Baker Watts, Incorporated  
100 Laidley Tower  
Charleston, WV 25301

Crews & Associates, Inc.  
2000 Union National Plaza  
124 West Capitol Avenue  
Little Rock, Arkansas 72201

Re: \$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities), 2003  
Series A

Ladies and Gentlemen:

We have acted as your counsel in connection with your purchase of the referenced bonds (the "2003 Bonds") pursuant to a Bond Purchase Agreement dated July 31, 2003 (the "Agreement") between West Virginia Higher Education policy Commission (the "Issuer") and you. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Agreement.

**GOODWIN & GOODWIN, LLP**

We are of the opinion under existing law that the 2003 Bonds are exempt from registration under the Securities Act of 1933, as amended, and that the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.

The Agreement has been duly authorized, executed and delivered by you, and (assuming due authorization, execution and delivery by the other parties and that it is a binding agreement of the other parties in accordance with its terms) constitutes a binding agreement in accordance with its terms. The Continuing Disclosure Certificate complies as to form in all material respects with the requirements of paragraph (b)(5) of the Rule.

We are not passing upon and do not assume any responsibility for the accuracy, completeness or fairness of any of the statements in the Official Statement and make no representation that we have independently verified the accuracy, completeness or fairness of any such statements. However, to assist you in your investigation concerning the Official Statement, we have reviewed certain documents and have participated in conferences in which the contents of the Official Statement and related matters were discussed. During the course of our work on this matter, no facts have come to our attention that cause us to believe that the Official Statement (except for any financial and statistical data and forecasts, numbers, estimates, assumptions and expressions of opinion, information concerning The Depository Trust Company and the book-entry system for the 2003 Bonds, all of which we expressly exclude from the scope of this sentence) contains as of the date hereof any untrue statement of a material fact or omits to state any material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

This letter is furnished by us solely for your benefit and may not be relied upon by any other person or entity. We disclaim any obligation to supplement this letter to reflect any facts or circumstances that may hereafter come to our attention or any changes in the law that may hereafter occur.

Very truly yours,



Goodwin & Goodwin, LLP



**SPILMAN THOMAS & BATTLE, PLLC**

ATTORNEYS AT LAW

August 13, 2003

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, West Virginia 25301

Municipal Bond Commission  
8 Capitol Street, Suite 500  
Charleston, WV 25301

Bank One, N.A.  
707 Virginia Street, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Re: \$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities) 2003,  
Series A

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance of the above-referenced Bonds (the "2003 Bonds") of the West Virginia Higher Education Policy Commission (the "Commission"), issued pursuant to the Constitution and laws of the State, including particularly Chapter 18B, Article 1B, Chapter 18, Article 12B and Chapter 13, Article 2G of the Code of West Virginia, 1931, as amended (collectively, the "Act") and pursuant to the Fourth Supplemental Resolution of the Commission adopted March 17, 2003 (the "Fourth Supplemental Resolution"), the Fifth Supplemental Resolution of the Commission adopted April 24, 2003 (the "Fifth Supplemental Resolution"), and the Sixth Supplemental Resolution of the Commission adopted June 5, 2003 (the "Sixth Supplemental Resolution"), all amending the General Resolution of the Commission adopted September 9, 1992, (the "General Resolution," and together with the Fourth Supplemental Resolution, the Fifth Supplemental Resolution, and the Sixth Supplemental Resolution, the "Resolution").

In rendering this opinion, we reviewed records of the acts taken by the Commission in connection with the authorization, sale and issuance of the 2003 Bonds, including the record of proceedings of the Commission relating to the authorization, execution and delivery of the 2003 Bonds.

The opinion in this paragraph is being rendered pursuant to Section 2.03(b) of the General Resolution. We are of the opinion that: (i) the Fourth, Fifth and Sixth Supplemental

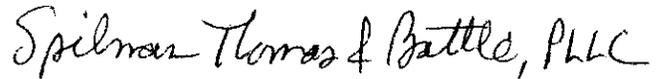


West Virginia Higher Education Policy Commission  
West Virginia Municipal Bond Commission  
Bank One, N.A.  
August 13, 2003  
Page 2

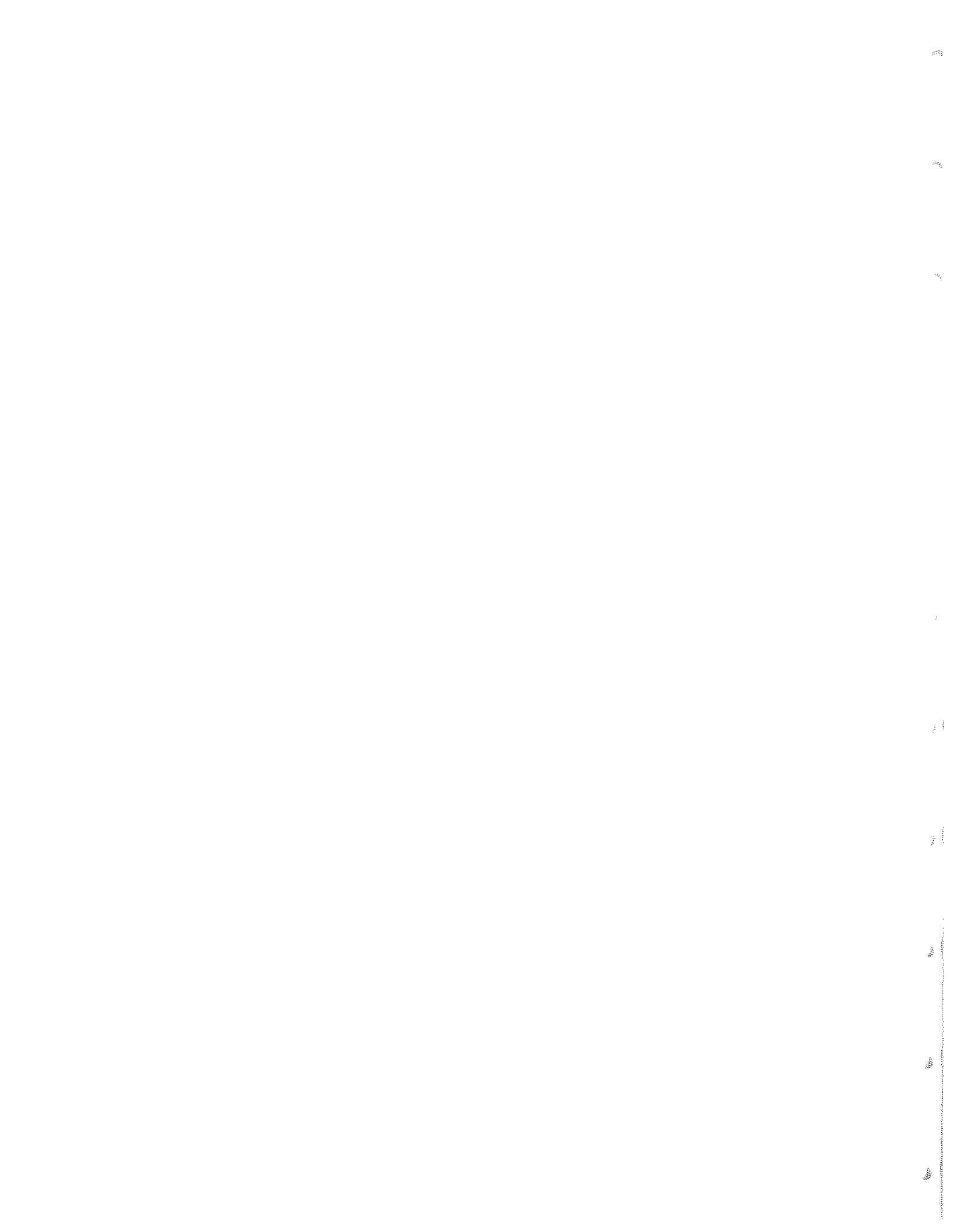
Resolutions have been duly and lawfully adopted and are in full force and effect; (ii) the General Resolution has been duly and lawfully adopted and is valid and binding upon, and enforceable against the Commission (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting the rights and remedies of creditors); (iii) the General Resolution creates the valid pledge which it purports to create of the Revenues, and moneys and securities on deposit in any of the Funds established thereunder (other than a Purchase Fund, if any) subject to the application thereof to the purposes and on the conditions permitted by the General Resolution; and (iv) upon execution and delivery thereof, the 2003 Bonds will have been duly and validly authorized and issued in accordance with the General Resolution.

The opinion in this paragraph is being rendered pursuant to the Fifth Supplemental Resolution and the Sixth Supplemental Resolution. We are of the opinion that upon issuance of the 2003 Bonds the amendments to the General Resolution contained in the Fifth and Sixth Supplemental Resolution will have been approved by the Owners of at least fifty percent (50%) of the Bonds Outstanding as of the date of issuance of the 2003 Bonds and that such amendments shall be in full force and effect subject to the terms thereof.

Very truly yours,



Spilman Thomas & Battle, PLLC





**SPILMAN THOMAS & BATTLE, PLLC**

ATTORNEYS AT LAW

August 13, 2003

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, West Virginia 25301

Citigroup Global Markets, Inc.  
390 Greenwich Street, 2<sup>nd</sup> Floor  
New York, New York 10013

Ferris, Baker Watts, Inc.  
100 Laidley Towers  
Charleston, West Virginia 25301

Crews & Associates, Inc.  
300 Summers Street, Suite 930  
Charleston, West Virginia 25301

\$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities) 2003  
Series A

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the West Virginia Higher Education Policy Commission (the "Commission") of its \$22,160,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A, dated as of August 1, 2003 (the "2003 Bonds").

The Bonds maturing on April 1, 2004, April 1, 2005, April 1, 2006, April 1, 2008, April 1, 2009 and April 1, 2010, Bonds purchased, whether at original issuance or otherwise, for an amount greater than their principal amount payable at maturity ("Premium Bonds") will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, the amount of tax exempt interest received, and a purchaser's basis in a Premium Bond, will be reduced by the amount of amortizable bond premium properly allocable to such purchaser. Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

West Virginia Higher Education Policy Commission  
Citigroup Global Markets Inc.  
Ferris, Baker Watts, Inc.  
Crews & Associates, Inc.  
August 13, 2003  
Page 2 of 2

Very truly yours,

*Spilman Thomas & Battle, PLLC*

Spilman Thomas & Battle, PLLC

 **SPILMAN THOMAS & BATTLE**. PLLC  
ATTORNEYS AT LAW

August 13, 2003

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, West Virginia 25301

Citigroup Global Markets, Inc.  
390 Greenwich Street, 2<sup>nd</sup> Floor  
New York, New York 10013

Ferris, Baker Watts, Inc.  
100 Laidley Towers  
Charleston, West Virginia 25301

Crews & Associates, Inc.  
300 Summers Street, Suite 930  
Charleston, West Virginia 25301

\$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities) 2003  
Series A

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the West Virginia Higher Education Policy Commission (the "Commission") of its \$22,160,000 aggregate principal amount State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A, dated as of August 1, 2003 (the "2003 Bonds").

To the extent the issue price of the Bonds maturing on April 1, 2007, April 1, 2011 and April 1, 2012, is less than the amount to be paid at maturity of such Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Bonds), the difference constitutes "original issue discount," the accrual of which, to the extent properly allocable to each owner thereof, is treated as interest on the Bonds which is excluded from gross income for federal income tax purposes. For this purpose, the issue price of a particular maturity of the Bonds is the first price at which a substantial amount of such maturity of the Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of the Bonds accrues daily over the term to maturity of such Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis

West Virginia Higher Education Policy Commission  
Citigroup Global Markets Inc.  
Ferris, Baker Watts, Inc.  
Crews & Associates, Inc.  
August 13, 2003  
Page 2 of 2

of such Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Bonds. Owners of the Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of purchasers who do not purchase such Bonds in the original offering to the public at the first price at which a substantial amount of such Bonds is sold to the public.

Very truly yours,

*Spilman Thomas & Battle, PLLC*

Spilman Thomas & Battle, PLLC



SPILMAN THOMAS & BATTLE, PLLC

ATTORNEYS AT LAW

August 13, 2003

Citigroup Global Markets, Inc.  
390 Greenwich Street, 2<sup>nd</sup> Floor  
New York, New York 10013

Ferris, Baker Watts, Inc.  
100 Laidley Towers  
Charleston, West Virginia 25301

Crews & Associates, Inc.  
300 Summers Street, Suite 930  
Charleston, West Virginia 25301

MBIA Insurance Company  
113 King Street  
Armonk, New York 10504

Re: \$22,160,000 State of West Virginia Higher Education Policy  
Commission Revenue Refunding Bonds (College Facilities)  
2003 Series A

Ladies and Gentlemen:

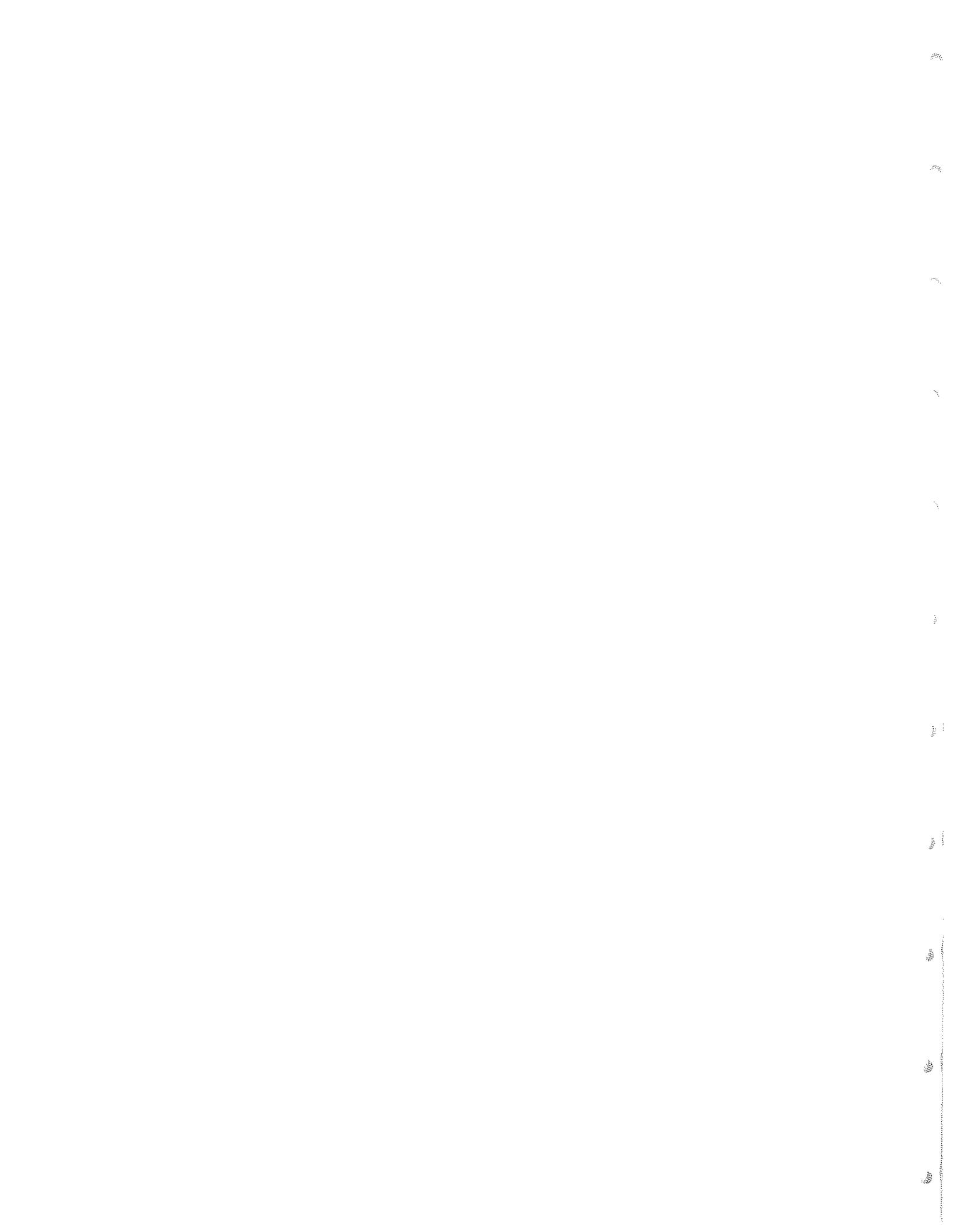
We have delivered our opinions of even date herewith, a copy of which is attached. You may rely upon these opinion as if specifically addressed to you.

Very truly yours,

*Spilman Thomas & Battle, PLLC*

Spilman Thomas & Battle, PLLC

265738



**KUTAK ROCK LLP**  
SUITE 1100  
18201 VON KARMAN AVENUE  
IRVINE, CALIFORNIA 92612-1077

949-417-0999  
FACSIMILE 949-417-5394

www.kutakrock.com

August 13, 2003

ATLANTA  
CHICAGO  
DENVER  
DES MOINES  
FAYETTEVILLE  
KANSAS CITY  
LINCOLN  
LITTLE ROCK  
OKLAHOMA CITY  
OMAHA  
PASADENA  
RICHMOND  
SCOTTSDALE  
WASHINGTON

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East Suite 700  
Charleston, WV 2530-1

Bank One Investment Management Group, as  
paying agent  
Global Corporate Trust Services  
707 Virginia Street, 2<sup>nd</sup> Floor WV 1-0504  
Charleston, WV 25301

Citigroup Global Markets, Inc., as  
underwriter  
Public Finance  
One PPG Place -- 13<sup>th</sup> Floor  
Pittsburgh, PA 15222

\$22,160,000

State of West Virginia Higher Education Policy Commission  
Revenue Refunding Bonds (College Facilities) 2003 Series A

Ladies and Gentlemen:

We have acted as special counsel to the MBIA Insurance Corporation (the "Corporation") in connection with the issuance of Financial Guaranty Insurance Policy No. 42079 (the "Policy") relating to the original principal amount of \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A.

We are familiar with and have examined a copy of the Policy and such other relevant documents as we have deemed necessary.

Based upon the foregoing, we are of the following opinion:

1. The Corporation is a stock insurance corporation, duly incorporated and validly existing under the laws of the State of New York and is licensed and authorized to issue the Policy under the laws of the State of New York.

2. The Policy has been duly executed and is the valid and binding obligation of the Corporation enforceable in accordance with its terms except that the enforcement of the Policy may be limited by laws relating to bankruptcy, insolvency, reorganization, moratorium, receivership and other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Very truly yours,

*Kutak Rock LLP*





**REVISED AS OF AUGUST 8, 2003  
COMMITMENT TO ISSUE A  
FINANCIAL GUARANTY INSURANCE POLICY**

Application No.: 2003-003909-01

Sale Date: July 31, 2003

Program Type: Negotiated DP

Re: \$22,160,000 West Virginia Higher Education Policy Commission, Revenue Refunding Bonds (State College Facilities), 2003 Series A (the "Obligations")

This commitment to issue a financial guaranty insurance policy (the "Commitment") dated August 8, 2003, constitutes an agreement between WEST VIRGINIA STATE COLLEGE AND UNIVERSITY SYSTEM BOARD OF TRUSTEES (the "Applicant") and MBIA Insurance Corporation (the "Insurer"), a stock insurance company incorporated under the laws of the State of New York.

Based on an approved application dated May 9, 2003, the Insurer agrees, upon satisfaction of the conditions herein, to issue on the earlier of (i) 120 days of said approval date or (ii) on the date of delivery of and payment for the Obligations, a financial guaranty insurance policy (the "Policy") for the Obligations, insuring the payment of principal of and interest on the Obligations when due. The issuance of the Policy shall be subject to the following terms and conditions:

1. Payment by the Applicant, or by the Trustee on behalf of the Applicant, on the date of delivery of and payment for the Obligations, of a nonrefundable premium in the amount of \$65,000 [.249% (premium) of \$26,062,239.62 (total debt service), premium rounded to the nearest thousand]. The premium set out in this paragraph shall be the total premium required to be paid on the Policy issued pursuant to this Commitment.
2. The Obligations shall have received the unqualified opinion of bond counsel with respect to the tax-exempt status of interest on the Obligations.
3. There shall have been no material adverse change in the Obligations or the Resolution, Bond Ordinance, Trust Indenture or other official document authorizing the issuance of the Obligations or in the final official statement or other similar document, including the financial statements included therein.
4. There shall have been no material adverse change in any information submitted to the Insurer as a part of the application or subsequently submitted to be a part of the application to the Insurer.
5. No event shall have occurred which would allow any underwriter or any other purchaser of the Obligations not to be required to purchase the Obligations at closing.
6. A Statement of Insurance satisfactory to the Insurer shall be printed on the Obligations.
7. Prior to the delivery of and payment for the Obligations, none of the information or documents submitted as a part of the application to the Insurer shall be determined to contain any untrue or misleading statement of a material fact or fail to state a material fact required to be stated therein or necessary in order to make the statements contained therein not misleading.
8. No material adverse change affecting any security for the Obligations shall have occurred prior to the delivery of and payment for the Obligations.

9. The Insurer's "Payments Under the Policy/Other Required Provisions" (see attached) shall be included in the authorizing document.

10. The Applicant agrees not to use the Insurer's name in any public document including, without limitation, a press release or presentation, announcement or forum without the Insurer's prior consent. In the event that the Applicant is advised by counsel that it has a legal obligation to disclose the Insurer's name in any press release, public announcement or other public document, the Applicant shall provide the Insurer with at least three (3) business days' prior written notice of its intent to use the Insurer's name together with a copy of the proposed use of the Insurer's name and of any description of a transaction with the Insurer and shall obtain the Insurer's prior consent as to the form and substance of the proposed use of the Insurer's name and any such description.

11. This Commitment may be signed in counterpart by the parties hereto.

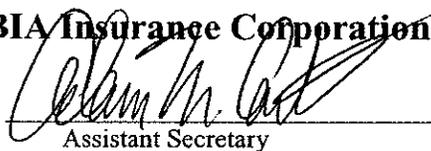
12. Compliance with the Insurer's General Document Provisions (see attached).

13. Compliance with the Insurer's Criteria for Current Refunding (see attached).

Dated this 8th day of August, 2003.

**MBIA Insurance Corporation**

By

  
Assistant Secretary

**WEST VIRGINIA STATE COLLEGE AND  
UNIVERSITY SYSTEM BOARD OF TRUSTEES**

By: \_\_\_\_\_

Title: \_\_\_\_\_



## GENERAL DOCUMENT PROVISIONS

- A. Notice to the Insurer The basic legal documents must provide that any notices required to be given by any party should also be given to the Insurer, Attn: Insured Portfolio Management.
- B. Amendments. In the basic legal document, there are usually two methods of amendment. The first, which typically does not require the consent of the bondholders, is for amendments which will cure ambiguities, correct formal defects or add to the security of the financing. The second, in which bondholder consent is a prerequisite, covers the more substantive types of amendments. For all financings, the Insurer must be given notice of any amendments that are of the first type and the Insurer's consent must be required for all amendments of the second type. All documents must contain a provision which requires copies of any amendments to such documents which are consented to by the Insurer to be sent to Standard & Poor's.
- C. Supplemental Legal Document. If the basic legal document provides for a supplemental legal document to be issued for reasons other than (1) a refunding to obtain savings; or (2) the issuance of additional bonds pursuant to an additional bonds test, there must be a requirement that the Insurer's consent also be obtained prior to the issuance of any additional bonds and/or execution of such supplemental legal document.
- D. Events of Default and Remedies. All documents normally contain provisions which define the events of default and which prescribe the remedies that may be exercised upon the occurrence of an event of default. At a minimum, events of default will be defined as follows:
1. the issuer/obligor fails to pay principal when due;
  2. the issuer/obligor fails to pay interest when due;
  3. the issuer/obligor fails to observe any other covenant or condition of the document and such failure continues for 30 days and
  4. the issuer/obligor declares bankruptcy.

The Insurer, acting alone, shall have the right to direct all remedies in the event of a default. The Insurer shall be recognized as the registered owner of each bond which it insures for the purposes of exercising all rights and privileges available to bondholders. For bonds which it insures, the Insurer shall have the right to institute any suit, action, or proceeding at law or in equity under the same terms as a bondholder in accordance with applicable provisions of the governing documents. Other than the usual redemption provisions, any acceleration of principal payments must be subject to the Insurer's prior written consent.

- E. Defeasance requires the deposit of:
1. Cash
  2. U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series -- "SLGs")
  3. Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities
  4. Resolution Funding Corp. (REFCORP) Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.
  5. Pre-refunded municipal bonds rated "Aaa" by Moody's and "AAA" by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody's rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or AAA rated pre-refunded municipals to satisfy this condition.

6. Obligations issued by the following agencies which are backed by the full faith and credit of the U.S.
  - a. U.S. Export-Import Bank (Eximbank)  
Direct obligations or fully guaranteed certificates of beneficial ownership
  - b. Farmers Home Administration (FmHA)  
Certificates of beneficial ownership
  - c. Federal Financing Bank
  - d. General Services Administration  
Participation certificates
  - e. U.S. Maritime Administration  
Guaranteed Title XI financing
  - f. U.S. Department of Housing and Urban Development (HUD)  
Project Notes  
Local Authority Bonds  
New Communities Debentures - U.S. government guaranteed debentures  
U.S. Public Housing Notes and Bonds - U.S. government guaranteed public housing notes and bonds

The Insurer shall be provided with an opinion of counsel acceptable to the Insurer that the Obligations have been legally defeased and that the escrow agreement establishing such defeasance operates to legally defease the Obligations within the meaning of the Indenture and the Supplemental Indenture relating to the Obligations. In addition, the Insurer will be entitled to receive (i) 15 business days notice of any advance refunding of the Obligations and (ii) an accountant's report with respect to the sufficiency of the amounts deposited in escrow to defease the Obligations.

**F. Agents:**

1. In transactions where there is an agent/enhancer (other than the Insurer), the trustee, tender agent (if any), and paying agent (if any) must be commercial banks with trust powers.
2. The remarketing agent must have trust powers if they are responsible for holding moneys or receiving bonds. As an alternative, the documents may provide that if the remarketing agent is removed, resigns or is unable to perform its duties, the trustee must assume the responsibilities of remarketing agent until a substitute acceptable to the Insurer is appointed.



## CRITERIA FOR CURRENT REFUNDINGS

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- A. The period between closing on the refunding bonds and redemption of the refunded bonds shall not exceed 60 days.
- B. The proceeds of the refunding issue shall be sufficient to redeem the refunded bonds without reinvestment income (i.e. gross funded).
- C. Should the proceeds be invested, such investment(s) must mature in an amount and at such time so that sufficient cash will be available to effect the redemption. The Trustee must verify and confirm this in writing to the Insurer.
- D. Investments, to be held in a fiduciary account, must be limited to:
  1. Cash
  2. Direct obligations of the U.S. Treasury.
  3. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and have a rating by S&P of AAAM-G or AAAM. If the money market fund has been rated by Moody's, it must be rated Aaa as well. Investments in money market funds are limited to 10 days.

8/21/92

**STANDARD FORM FOR MBIA DISCLOSURE**  
**[GENERAL AND S-1]**

[The section entitled "The MBIA Insurance Corporation Insurance Policy" is for use in public finance transactions]

**[The MBIA Insurance Corporation Insurance Policy**

The following information has been furnished by MBIA Insurance Corporation ("MBIA") for use in this Official Statement. Reference is made to Appendix for a specimen of MBIA's policy.

MBIA's policy unconditionally and irrevocably guarantees the full and complete payment required to be made by or on behalf of the Issuer to the Paying Agent or its successor of an amount equal to (i) the principal of (either at the stated maturity or by an advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the [Bonds/Securities] as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed by MBIA's policy shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner of the [Bonds/Securities] pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law (a "Preference").

MBIA's policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any [Bonds/Securities]. MBIA's policy does not, under any circumstance, insure against loss relating to: (i) optional or mandatory redemptions (other than mandatory sinking fund redemptions); (ii) any payments to be made on an accelerated basis; (iii) payments of the purchase price of [Bonds/Securities] upon tender by an owner thereof; or (iv) any Preference relating to (i) through (iii) above. MBIA's policy also does not insure against nonpayment of principal of or interest on the [Bonds/Securities] resulting from the insolvency, negligence or any other act or omission of the Paying Agent or any other paying agent for the [Bonds/Securities].

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by MBIA from the Paying Agent or any owner of a [Bond/Security] the payment of an insured amount for which is then due, that such required payment has not been made, MBIA on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such insured amounts which are then due. Upon presentment and surrender of such [Bonds/Securities] or presentment of such other proof of ownership of the [Bonds/Securities], together with any appropriate instruments of assignment to evidence the assignment of the insured amounts due on the [Bonds/Securities] as are paid by MBIA, and appropriate instruments to effect the appointment of MBIA as agent for such owners of the [Bonds/Securities] in any legal proceeding related to payment of insured amounts on the [Bonds/Securities], such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners or the Paying Agent payment of the insured amounts due on such [Bonds/Securities], less any amount held by the Paying Agent for the payment of such insured amounts and legally available therefor.]

## **MBIA**

MBIA Insurance Corporation ("MBIA") is the principal operating subsidiary of MBIA Inc., a New York Stock Exchange listed company (the "Company"). The Company is not obligated to pay the debts of or claims against MBIA. MBIA is domiciled in the State of New York and licensed to do business in and subject to regulation under the laws of all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States and the Territory of Guam. MBIA has three branches, one in the Republic of France, one in the Republic of Singapore and one in the Kingdom of Spain. New York has laws prescribing minimum capital requirements, limiting classes and concentrations of investments and requiring the approval of policy rates and forms. State laws also regulate the amount of both the aggregate and individual risks that may be insured, the payment of dividends by MBIA, changes in control and transactions among affiliates. Additionally, MBIA is required to maintain contingency reserves on its liabilities in certain amounts and for certain periods of time.

MBIA does not accept any responsibility for the accuracy or completeness of this [Prospectus/Private Placement Memorandum/Official Statement] or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the policy and MBIA set forth under the heading [" "]. Additionally, MBIA makes no representation regarding the [Bonds/Securities] or the advisability of investing in the [Bonds/Securities].

The Financial Guarantee Insurance Policies are not covered by the Property/Casualty Insurance Security Fund specified in Article 76 of the New York Insurance Law.

## **MBIA Information**

The following documents filed by the Company with the Securities and Exchange Commission (the "SEC") are incorporated herein by reference:

- (1) The Company's Annual Report on Form 10-K for the year ended December 31, 2002; and
- (2) The Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2003.

Any documents filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act of 1934, as amended, after the date of this [Prospectus/Private Placement Memorandum/Official Statement] and prior to the termination of the offering of the [Bonds/Securities] offered hereby shall be deemed to be incorporated by reference in this [Prospectus/Private Placement Memorandum/Official Statement] and to be a part hereof. Any statement contained in a document incorporated or deemed to be incorporated by reference herein, or contained in this [Prospectus/Private Placement Memorandum/Official Statement], shall be deemed to be modified or superseded for purposes of this [Prospectus/Private Placement Memorandum/Official Statement] to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this [Prospectus/Private Placement Memorandum/Official Statement].

The Company files annual, quarterly and special reports, information statements and other information with the SEC under File No. 1-9583. Copies of the SEC filings (including (1) the Company's

Annual Report on Form 10-K for the year ended December 31, 2002, and (2) the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2003,, are available (i) over the Internet at the SEC's web site at <http://www.sec.gov>; (ii) at the SEC's public reference room in Washington D.C.; (iii) over the Internet at the Company's web site at <http://www.mbia.com>; and (iv) at no cost, upon request to MBIA Insurance Corporation, 113 King Street, Armonk, New York 10504. The telephone number of MBIA is (914) 273-4545.

As of December 31, 2002, MBIA had admitted assets of \$9.2 billion (audited), total liabilities of \$6.0 billion (audited), and total capital and surplus of \$3.2 billion (audited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities. As of March 31, 2003 MBIA had admitted assets of \$9.3 billion (unaudited), total liabilities of \$6.1 billion (unaudited), and total capital and surplus of \$3.2 billion (unaudited) determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities.

### **Financial Strength Ratings of MBIA**

Moody's Investors Service, Inc. rates the financial strength of MBIA "Aaa."

Standard & Poor's, a division of The McGraw-Hill Companies, Inc. rates the financial strength of MBIA "AAA."

Fitch Ratings rates the financial strength of MBIA "AAA."

Each rating of MBIA should be evaluated independently. The ratings reflect the respective rating agency's current assessment of the creditworthiness of MBIA and its ability to pay claims on its policies of insurance. Any further explanation as to the significance of the above ratings may be obtained only from the applicable rating agency.

The above ratings are not recommendations to buy, sell or hold the [Bonds/Securities], and such ratings may be subject to revision or withdrawal at any time by the rating agencies. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of the [Bonds/Securities]. MBIA does not guaranty the market price of the [Bonds/Securities] nor does it guaranty that the ratings on the [Bonds/Securities] will not be revised or withdrawn.

STD

# FINANCIAL GUARANTY INSURANCE POLICY

**MBIA Insurance Corporation**  
**Armonk, New York 10504**

Policy No. [NUMBER]

MBIA Insurance Corporation (the "Insurer"), in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the Issuer to [PAYING AGENT/TRUSTEE] or its successor (the "Paying Agent") of an amount equal to (i) the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Obligations" shall mean:

[PAR]  
[LEGAL NAME OF ISSUE]

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners, or the Paying Agent payment of the Insured Amounts due on such Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Issuer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

IN WITNESS WHEREOF, the Insurer has caused this policy to be executed in facsimile on its behalf by its duly authorized officers, this [DAY] day of [MONTH, YEAR].

COUNTERSIGNED:

\_\_\_\_\_  
Resident Licensed Agent

\_\_\_\_\_  
City, State

**MBIA Insurance Corporation**

\_\_\_\_\_  
President

\_\_\_\_\_  
Assistant Secretary

Attest

## STATEMENT OF INSURANCE

MBIA Insurance Corporation (the "Insurer") has issued a policy containing the following provisions, such policy being on file at [INSERT NAME OF TRUSTEE OR PAYING AGENT, INCLUDING CITY, STATE].

The Insurer, in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the Issuer to [INSERT NAME OF TRUSTEE OR PAYING AGENT] or its successor (the "Paying Agent") of an amount equal to (i) the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Obligations" shall mean: [INSERT LEGAL TITLE OF BONDS, CENTERED AS FOLLOWS:]

[\$ PAR AMOUNT]  
[ISSUER]  
[DESCRIPTION OF BONDS]

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners or the Paying Agent payment of the Insured Amounts due on such Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Issuer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

MBIA INSURANCE CORPORATION

## PAYMENTS UNDER THE POLICY/OTHER REQUIRED PROVISIONS

A. In the event that, on the second Business Day, and again on the Business Day, prior to the payment date on the Obligations, the Paying Agent/Trustee has not received sufficient moneys to pay all principal of and interest on the Obligations due on the second following or following, as the case may be, Business Day, the Paying Agent/Trustee shall immediately notify the Insurer or its designee on the same Business Day by telephone or telegraph, confirmed in writing by registered or certified mail, of the amount of the deficiency.

B. If the deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent/Trustee shall so notify the Insurer or its designee.

C. In addition, if the Paying Agent/Trustee has notice that any Bondholder has been required to disgorge payments of principal or interest on the Obligations to a trustee in bankruptcy or creditors or others pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Bondholder within the meaning of any applicable bankruptcy laws, then the Paying Agent/Trustee shall notify the Insurer or its designee of such fact by telephone or telegraphic notice, confirmed in writing by registered or certified mail.

D. The Paying Agent/Trustee is hereby irrevocably designated, appointed, directed and authorized to act as attorney-in-fact for Holders of the Obligations as follows:

1. If and to the extent there is a deficiency in amounts required to pay interest on the Obligations, the Paying Agent/Trustee shall (a) execute and deliver to U.S. Bank Trust National Association, or its successors under the Policy (the "Insurance Paying Agent/Trustee"), in form satisfactory to the Insurance Paying Agent/Trustee, an instrument appointing the Insurer as agent for such Holders in any legal proceeding related to the payment of such interest and an assignment to the Insurer of the claims for interest to which such deficiency relates and which are paid by the Insurer, (b) receive as designee of the respective Holders (and not as Paying Agent/Trustee) in accordance with the tenor of the Policy payment from the Insurance Paying Agent/Trustee with respect to the claims for interest so assigned, and (c) disburse the same to such respective Holders; and

2. If and to the extent of a deficiency in amounts required to pay principal of the Obligations, the Paying Agent/Trustee shall (a) execute and deliver to the Insurance Paying Agent/Trustee in form satisfactory to the Insurance Paying Agent/Trustee an instrument appointing the Insurer as agent for such Holder in any legal proceeding relating to the payment of such principal and an assignment to the Insurer of any of the Obligation surrendered to the Insurance Paying Agent/Trustee of so much of the principal amount thereof as has not previously been paid or for which moneys are not held by the Paying Agent/Trustee and available for such payment (but such assignment shall be delivered only if payment from the Insurance Paying Agent/Trustee is received), (b) receive as designee of the respective Holders (and not as Paying Agent/Trustee) in accordance with the tenor of the Policy payment therefor from the Insurance Paying Agent/Trustee, and (c) disburse the same to such Holders.

E. Payments with respect to claims for interest on and principal of Obligations disbursed by the Paying Agent/Trustee from proceeds of the Policy shall not be considered to discharge the obligation of the Issuer with respect to such Obligations, and the Insurer shall become the owner of such unpaid Obligation and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of this subsection or otherwise.

F. Irrespective of whether any such assignment is executed and delivered, the Issuer and the Paying Agent/Trustee hereby agree for the benefit of the Insurer that:

1. They recognize that to the extent the Insurer makes payments, directly or indirectly (as by paying through the Paying Agent/Trustee), on account of principal of or interest on the Obligations, the Insurer will be subrogated to the rights of such Holders to receive the amount of such principal and interest from the Issuer, with interest thereon as provided and solely from the sources stated in this Indenture and the Obligations; and

2. They will accordingly pay to the Insurer the amount of such principal and interest (including principal and interest recovered under subparagraph (ii) of the first paragraph of the Policy, which principal and interest shall be deemed past due and not to have been paid), with interest thereon as provided in this Indenture and the Obligation, but only from the sources and in the manner provided herein for the payment of principal of and interest on the Obligations to Holders, and will otherwise treat the Insurer as the owner of such rights to the amount of such principal and interest.

G. In connection with the issuance of additional Obligations, the Issuer shall deliver to the Insurer a copy of the disclosure document, if any, circulated with respect to such additional Obligations.

H. Copies of any amendments made to the documents executed in connection with the issuance of the Obligations which are consented to by the Insurer shall be sent to Standard & Poor's Corporation.

I. The Insurer shall receive notice of the resignation or removal of the Paying Agent/Trustee and the appointment of a successor thereto.

J. The Insurer shall receive copies of all notices required to be delivered to Bondholders and, on an annual basis, copies of the Issuer's audited financial statements and Annual Budget.

Notices: Any notice that is required to be given to a holder of the Obligation or to the Paying Agent/Trustee pursuant to the Indenture shall also be provided to the Insurer. All notices required to be given to the Insurer under the Indenture shall be in writing and shall be sent by registered or certified mail addressed to MBIA Insurance Corporation, 113 King Street, Armonk, New York 10504 Attention: Surveillance.

K. The Issuer/Obligor agrees to reimburse the Insurer immediately and unconditionally upon demand, to the extent permitted by law, for all reasonable expenses, including attorneys' fees and expenses, incurred by the Insurer in connection with (i) the enforcement by the Insurer of the Issuer's/Obligor's obligations, or the preservation or defense of any rights of the Insurer, under this Resolution/Indenture and any other document executed in connection with the issuance of the Obligations, and (ii) any consent, amendment, waiver or other action with respect to the Resolution/Indenture or any

related document, whether or not granted or approved, together with interest on all such expenses from and including the date incurred to the date of payment at Citibank's Prime Rate plus 3% or the maximum interest rate permitted by law, whichever is less. In addition, the Insurer reserves the right to charge a fee in connection with its review of any such consent, amendment or waiver, whether or not granted or approved.

L. The Issuer/Obligor agrees not to use MBIA's name in any public document including, without limitation, a press release or presentation, announcement or forum without MBIA's prior consent. In the event that the Issuer/Obligor is advised by counsel that it has a legal obligation to disclose MBIA's name in any press release, public announcement or other public document, the Issuer/Obligor shall provide MBIA with at least three (3) business days' prior written notice of its intent to use MBIA's name together with a copy of the proposed use of MBIA's name and of any description of a transaction with MBIA and shall obtain MBIA's prior consent as to the form and substance of the proposed use of MBIA's name and any such description.

M. The Issuer/Obligor shall not enter into any agreement nor shall it consent to or participate in any arrangement pursuant to which Bonds are tendered or purchased for any purpose other than the redemption and cancellation or legal defeasance of such Bonds without the prior written consent of MBIA.

Revised 4/03

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1"

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**MBIA**

3/4"





**FINANCIAL GUARANTY INSURANCE POLICY**  
**MBIA Insurance Corporation**  
**Armonk, New York 10504**

Policy No. 42079

MBIA Insurance Corporation (the "Insurer"), in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the Issuer to Bank One, N.A., Charleston, West Virginia

or its successor (the "Paying Agent") of an amount equal to (i) the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to hereinafter collectively as the "Insured Amounts." "Obligations" shall mean:

\$22,160,000  
 State of West Virginia Higher Education Policy Commission  
 Revenue Refunding Bonds (College Facilities)  
 2002 Series A

**SPECIMEN**

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners, or the Paying Agent payment of the Insured Amounts due on such Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Insurer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

IN WITNESS WHEREOF, the Insurer has caused this policy to be executed in facsimile on its behalf by its duly authorized officers, this 13th day of August, 2003.

COUNTERSIGNED:

*C. Edward Gump*  
 Resident Licensed Agent

*Charleston, WV*  
 City, State

**MBIA Insurance Corporation**  
*Ray C. Hunter*  
 President

Attest: *Adam M. ...*  
 Assistant Secretary





CERTIFICATE OF  
MBIA INSURANCE CORPORATION

I, Adam M. Carta of MBIA Insurance Corporation, do hereby certify that the information concerning MBIA Insurance Corporation and the Policy under the caption "BOND INSURANCE" set forth in the Official Statement dated July 31, 2003 regarding the \$22,160,000 in aggregate principal amount of the State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A, is accurate.

IN WITNESS WHEREOF, I hereunto set my hand and deliver this Certificate on this 13th day of August, 2003.

MBIA INSURANCE CORPORATION

By   
Authorized Officer





Capital Strength. Triple-A Performance.

**MBIA Insurance Corporation**  
113 King Street, Armonk, NY 10504  
Tel 914-273-4545  
www.mbia.com

## TAX CERTIFICATE

West Virginia Higher Education Policy Commission  
1018 Kanawha Boulevard, East Suite 700  
Charleston, WV 2530-1

\$22,160,000

State of West Virginia Higher Education Policy Commission  
Revenue Refunding Bonds (College Facilities) 2003 Series A

Ladies and Gentlemen:

In connection with the issuance of the above-referenced obligations (the "Obligations"), we are issuing a financial guaranty insurance policy (the "Policy") securing the payment of principal and interest on the Obligations.

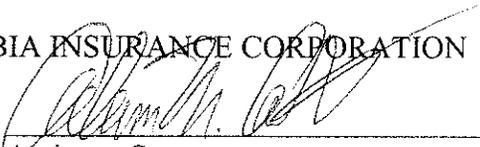
This is to advise you that:

1. The Policy is an unconditional obligation of the Insurer to pay scheduled payments of principal and interest on the Obligations in the event of a failure to do so by the State of West Virginia Higher Education Policy Commission (the "Issuer");
2. The insurance premium in the amount of \$65,000 represents the charge for a transfer of credit risk and was determined in arm's-length negotiations and is required to be paid as a condition to the issuance of the Policy;
3. No portion of such premium represents an indirect payment of costs related to the issuance of the Obligations, other than for the transfer of credit risk;
4. The Insurer does not reasonably expect that it will be called upon to make any payment under the Policy; and
5. To the extent the Insurer is called upon to make any payment under the Policy, the Insurer reasonably expects to pursue all available legal remedies to secure reimbursement for such payment.

Dated: August 13, 2003

MBIA INSURANCE CORPORATION

By

  
Assistant Secretary



**INSURANCE AND REIMBURSEMENT AGREEMENT**

between

**STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION**

and

**MBIA INSURANCE CORPORATION**

regarding

**\$22,160,000  
State of West Virginia  
Higher Education Policy Commission  
Revenue Refunding Bonds  
(College Facilities) 2003 Series A**

Dated as of August 1, 2003

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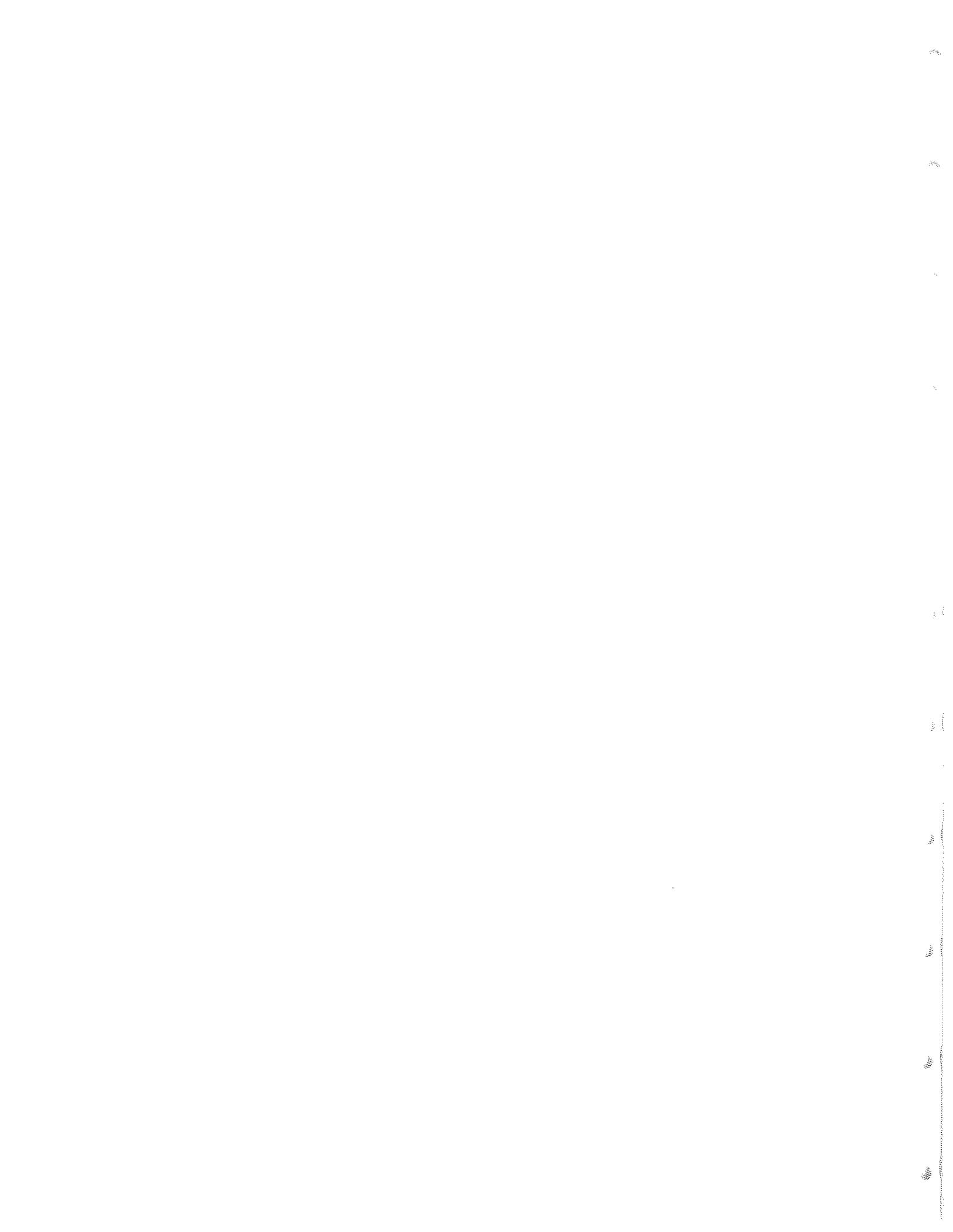
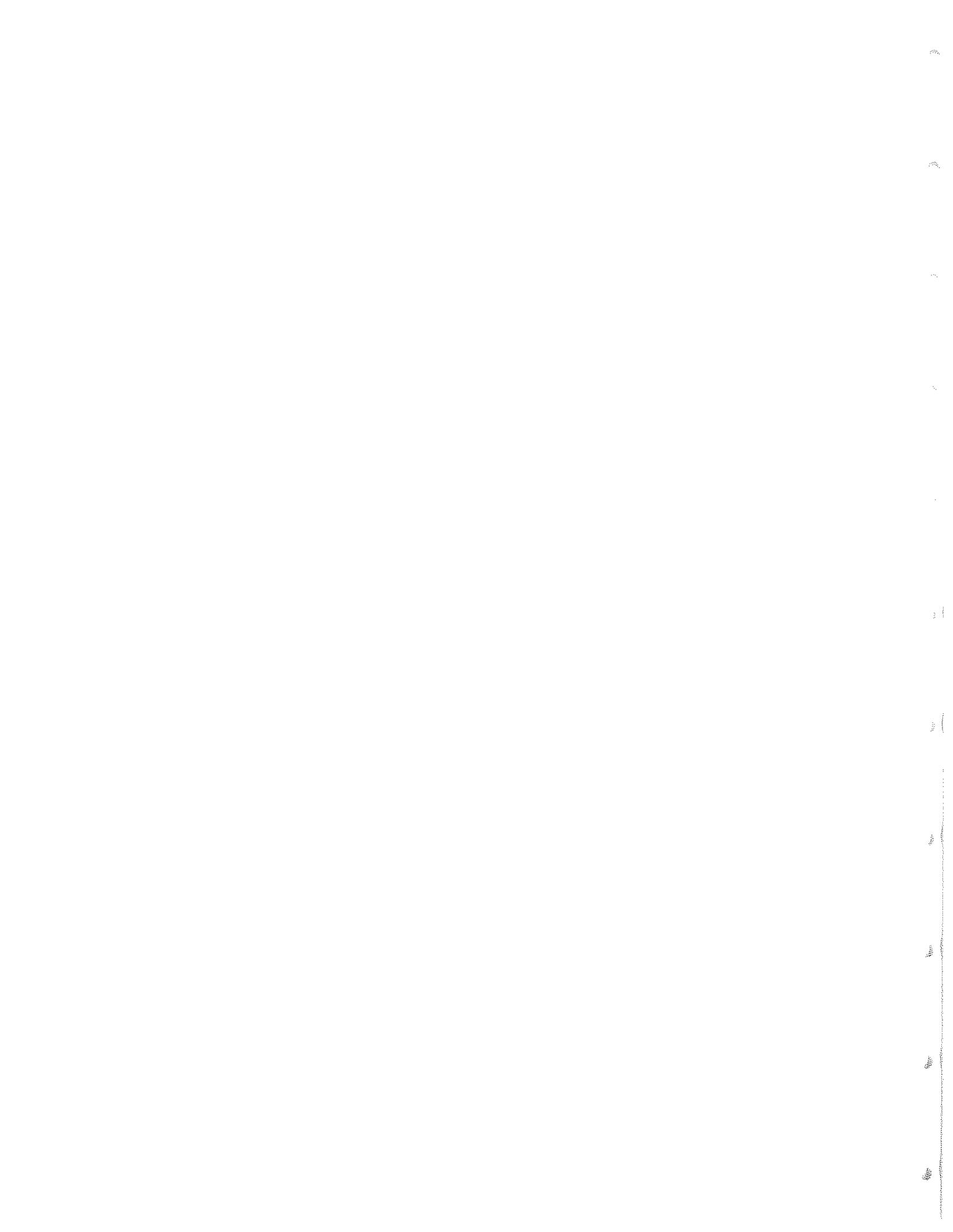
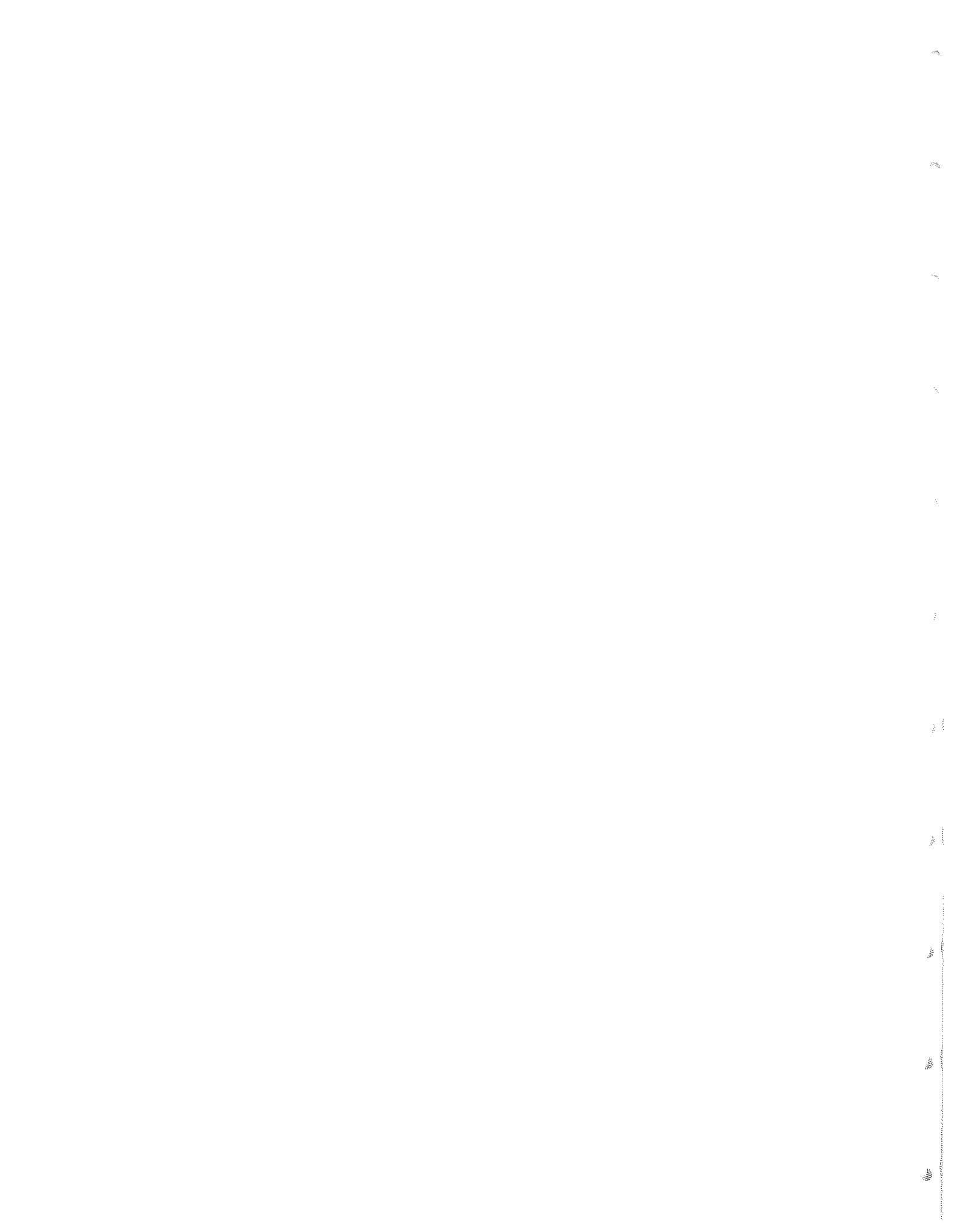


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## INSURANCE AND REIMBURSEMENT AGREEMENT

This Insurance and Reimbursement Agreement (this "Agreement") dated as of August 1, 2003 by and between the State of West Virginia Higher Education Policy Commission (the "Commission"), and MBIA Insurance Corporation, a stock insurance corporation, duly organized and existing under the laws of the State of New York ("MBIA"). Capitalized terms not otherwise defined shall have the meanings ascribed thereto in Article I of this Agreement.

### RECITALS

1. The Board of Directors of the State College System (the "Board") on September 9, 1992, adopted a General Resolution (the "General Resolution") pursuant to which it is authorized to issue one or more series of its revenue bonds. The Commission is a commission of the State of West Virginia and is successor to the Board and is empowered and authorized to issue bonds pursuant to the Higher Education Policy Commission Act (the "Act"), among other things, in furtherance of the public purposes as found and determined by the Legislature of West Virginia as set forth in the Act;

2. For the purpose of (i) refunding certain of the Commission's outstanding State College System Revenue Refunding Bonds, Series 1992, dated November 1, 1992, and (ii) paying costs associated with the issuance of the \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A (the "Bonds"), the Commission has determined to issue the Bonds, all pursuant to and secured by the Resolution (as defined herein);

3. MBIA has agreed to deliver to the Paying Agent its financial guaranty insurance policy with respect to the Bonds (the "Bond Policy"), such Bond Policy guaranteeing regularly scheduled principal and interest payments on the Bonds without regard to any acceleration of the time of payment of the Bonds; and

4. This Agreement is entered into in order to set forth certain representations, warranties, covenants and other agreements of the Commission and to evidence the Commission's obligation (a) to reimburse MBIA for any payment made by MBIA under the Bond Policy and (b) to the extent not prohibited by law to reimburse MBIA for certain amounts as more fully set forth herein.

In consideration of the premises and the mutual promises set forth below, MBIA and the Commission agree as follows:

### ARTICLE I

#### DEFINITIONS

Unless the context otherwise requires, the terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Resolution.



*“Authorized Officer,”* shall have the meaning assigned to such term in the Resolution.

*“Bond Policy”* means Financial Guaranty Insurance Policy No. 42079, issued by MBIA, including any endorsements thereto.

*“Bond Purchase Agreement”* means the Bond Purchase Agreement, dated as of August 1, 2003, by and among the Commission and Citigroup Global Markets Inc., Ferris, Baker Watts, Incorporated and Crews & Associates, Inc., as underwriters, with respect to the Bonds.

*“Bonds”* shall have the meaning ascribed thereto in the Recitals above.

*“Business Day”* shall have the meaning assigned to such term in the Resolution.

*“Certificate of Determination”* means the certificate (including all schedules attached thereto) executed by the Authorized Officer setting forth the final terms and provisions of the Bonds, the Bond Purchase Agreement and the other Bond Documents (as such term is defined in the Fourth Supplemental Resolution) as provided in Section 2.03 of the Fourth Supplemental Resolution.

*“Counsel”* means nationally recognized municipal bond counsel acceptable to MBIA.

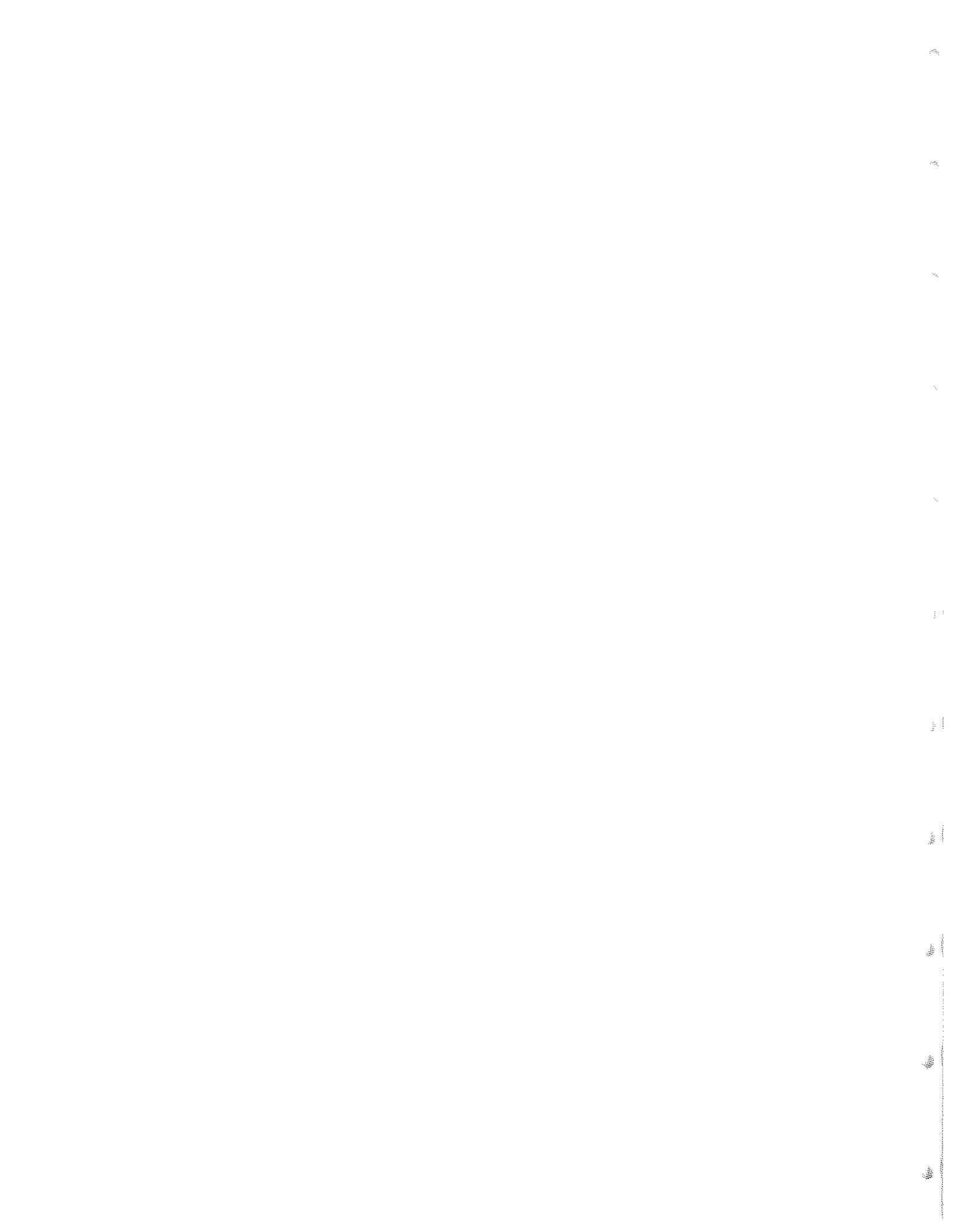
*“Derivative Agreement”* means (i) any contract known as or referred to or which performs the function of an interest rate swap agreement, currency swap agreement, forward payment conversion agreement or futures contract; (ii) any contract providing for payments based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or other indices; (iii) any contract to exchange cash flows or payments or series of payments; (iv) any type of contract called, or designed to perform the function of, interest rate floors or caps, options, puts or calls or to hedge or minimize any type of financial risk, including, without limitation, payment, currency, rate or other financial risk; and (v) any other type of contract or arrangement that the Commission entering into such contract or arrangement determines is to be used, or is intended to be used, to manage or reduce the cost of indebtedness, to convert any element of indebtedness from one form to another, to maximize or increase investment return, to minimize investment return risk or to protect against any type of financial risk or uncertainty.

*“Early Termination Payment”* means, with respect to a Derivative Agreement, any payment obligation of the Commission thereunder due upon the early termination of any transaction governed by such Derivative Agreement, other than an Insured Early Termination Payment.

*“Fifth Supplemental Resolution”* means the Fifth Supplemental Resolution adopted by the Commission on April 24, 2003.

*“Fourth Supplemental Resolution”* means the Fourth Supplemental Resolution adopted by the Commission on March 17, 2003.

*“Insured Early Termination Payment”* means, with respect to a Derivative Agreement, any payment obligation of the Commission thereunder due upon the early termination of any



transaction governed by such Derivative Agreement that is insured under an insurance policy issued by an insurer that has also issued a bond insurance policy with respect to Related Bonds.

*“Insured Swap”* means any Derivative Agreement wherein the Regularly Scheduled Payments are insured under a swap insurance policy from an insurer who has also insured the Related Bonds, having an outstanding principal amount at least equal to the notional amount of the Derivative Agreement.

*“Insured Swap Payments”* means any payment obligation of the Commission due pursuant to an Insured Swap that is insured under a swap insurance policy.

*“MBIA”* means MBIA Insurance Corporation, a New York stock insurance corporation.

*“MBIA Commitment”* means the MBIA Insurance Corporation Commitment relating to the delivery of the Bond Policy.

*“Municipal Bond Commission”* means the West Virginia Municipal Bond Commission in its capacity as trustee to hold and manage the funds and accounts established pursuant to the Fourth Supplemental Resolution relating to the Bonds.

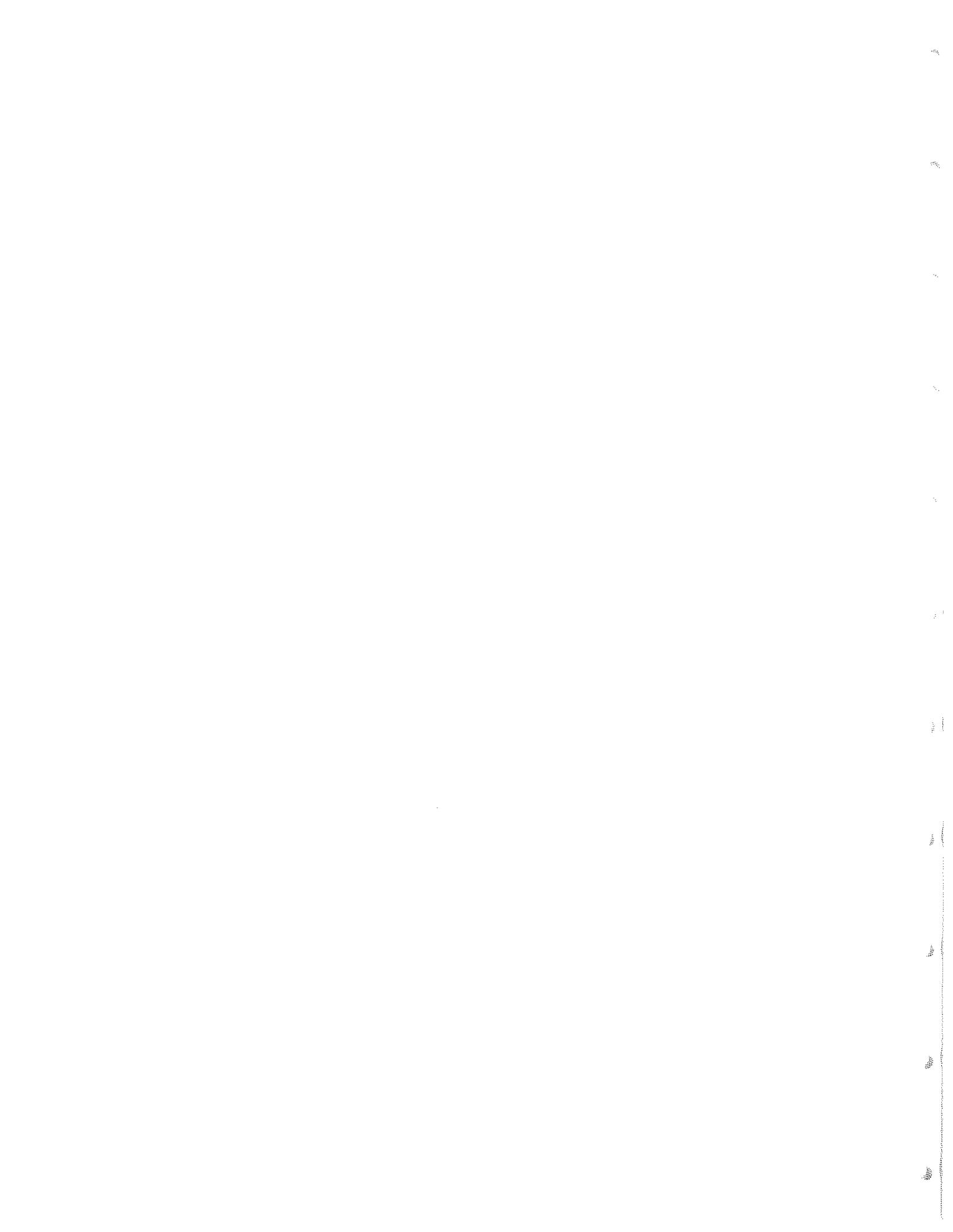
*“Non Scheduled Payments”* means any payments under any Derivative Agreement that are not Regularly Scheduled Payments, including but not limited to Early Termination Payments, indemnification payments, tax gross-up payments, expenses and default interest payments.

*“Paying Agent”* means Bank One, N.A., a national banking association organized and existing under the laws of the United States of America, and its successor or successors and any other person which may at any time be substituted in its place and approved by MBIA, acting as paying agent with respect to the Bonds.

*“Prime Rate”* means for any date of determination, the rate of interest as it is publicly announced by Citibank, N.A. at its principal office in New York, New York as its prime lending rate for unsecured commercial loans within the United States (any change in such prime rate of interest to be effective on the date such change is announced by Citibank, N.A.); provided, however, that if Citibank, N.A. ceases to announce a prime lending rate for unsecured commercial loans within the United States, then “Prime Rate” shall mean the average of the prime lending rates for unsecured commercial loans within the United States as announced by three leading commercial banks selected by MBIA from time-to-time.

*“Qualified Derivative Agreement”* means (a) a Derivative Agreement, whether it is an Insured Swap or Uninsured Swap, in either case, identified in such Derivative Agreement as being related to a particular series of bonds (the “Related Bonds”) if:

(i) the notional amount for such Derivative Agreement (when taken together with any other Derivative Agreement related to such Related Bonds) will not exceed the outstanding principal amount of such bonds; provided however that a transaction which reverses, in whole or in part, an existing Qualified Derivative Agreement (with the same provider, the same payment terms and dates, but reversing the obligations of the parties, providing that the two transactions



are netted against one another for payment purposes and that one transaction may not be terminated unless either (1) the other transaction is terminated, or (2) the remaining transaction would qualify as a Qualified Derivative Agreement if such determination were made at that point) will be permitted and so long as both remain in effect, will be considered, collectively, to have a zero notional amount for purposes of determining whether the notional amount of such Derivative Agreement will exceed the outstanding principal amount of the Related Bonds,

(ii) the rate to be paid by the Commission under such Derivative Agreement is not subject to a multiplier in excess of one;

(iii) the Derivative Agreement does not include a significant loan component (i.e., an obligation to repay money borrowed, credit extended or the equivalent thereof, including, but not limited to, receipt by the Commission of any payment (or promise of a payment) which effectively increases the rate on the Derivative Agreement which the Commission would otherwise pay);

(iv) such Derivative Agreement is not a currency swap and all payments under such Derivative Agreement are calculated in U.S. Dollars, and any variable or index-based rate used in such swap are from an index for U.S. Dollar denominated obligations; and

(v) any Non-Scheduled Payments (on an Uninsured Swap) or uninsured payments (on an Insured Swap) thereunder are both: (A) Subordinate to all Senior Obligations and (B) payable only if and to the extent that after such payment, the Commission shall have determined that it reasonably anticipates that it will have sufficient resources to meet all of its reasonably anticipated Senior Obligations coming due over the next 6 months;

(vi) collateral may be required to be delivered by the Commission in connection with such Derivative Agreement only if and to the extent that after such delivery that the Commission shall have determined that it reasonably anticipates that it will have sufficient resources to meet all of its reasonably anticipated Senior Obligations coming due over the next 6 months;

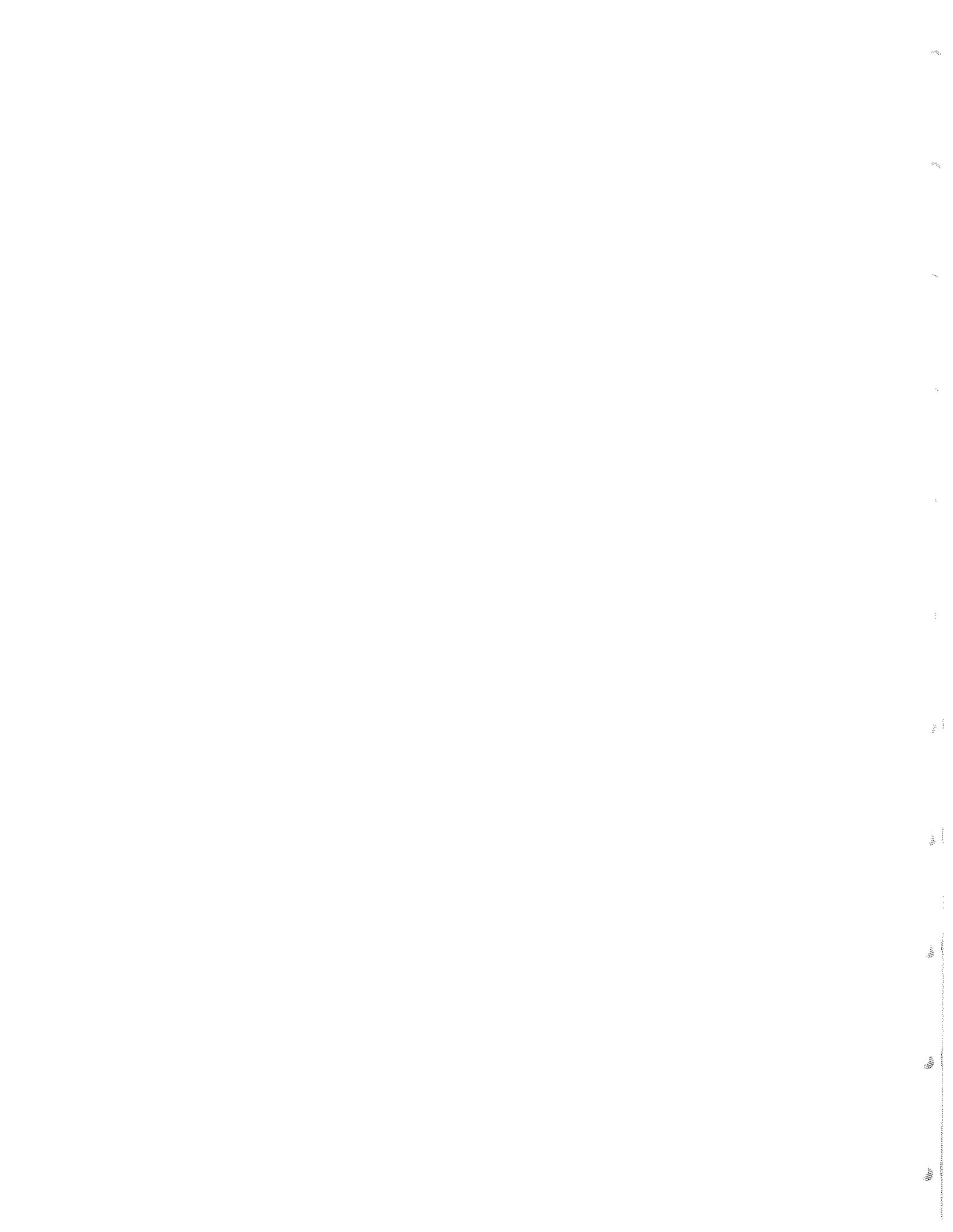
(vii) the principal amount of any Derivative Agreement shall be deemed to have a principal amount of zero for purposes of determining any consent or other voting rights under the Resolution; and

(viii) MBIA receives notice of, and a copy of, such Derivative Agreement; or

(b) any other Derivative Agreement approved by MBIA.

*“Reimbursement Rate”* means for any date of determination, the Prime Rate plus 3%. The Reimbursement Rate shall be computed on the basis of a year of 365 days calculating the actual number of days elapsed. In no event shall the Reimbursement Rate exceed the maximum rate permissible under any applicable law limiting interest rates.

*“Related Bonds”* shall have the meaning set forth in the definition of Qualified Derivative Agreement.



*“Related Documents”* means the Bonds, the Resolution, the Fourth Supplemental Resolution, the Fifth Supplemental Resolution, the Sixth Supplemental Resolution, any other Supplement to the Resolution, the Certificate of Determination, the Bond Purchase Agreement, Certificate of West Virginia Municipal Bond Commission and any other agreement or instrument relating hereto or thereto.

*“Regularly Scheduled Payments”* means any payments scheduled (at the time such Derivative Agreement is executed) for payment on dates related to interest payment days under the Related Bonds and which are intended to be “interest-like” when the interest on the Related Bonds and such payments are reviewed together.

*“Resolution”* means the General Resolution adopted by the Board of Directors of the State College System on September 9, 1992, and as amended and supplemented from time to time including, without limitation, by the Fourth Supplemental Resolution, the Fifth Supplemental Resolution and the Sixth Supplemental Resolution.

*“Senior Obligations”* means the Related Bonds, any obligations on a parity with or senior to the Related Bonds, and all the obligations of the Commission to make payments to MBIA under the Insurance and Reimbursement Agreement.

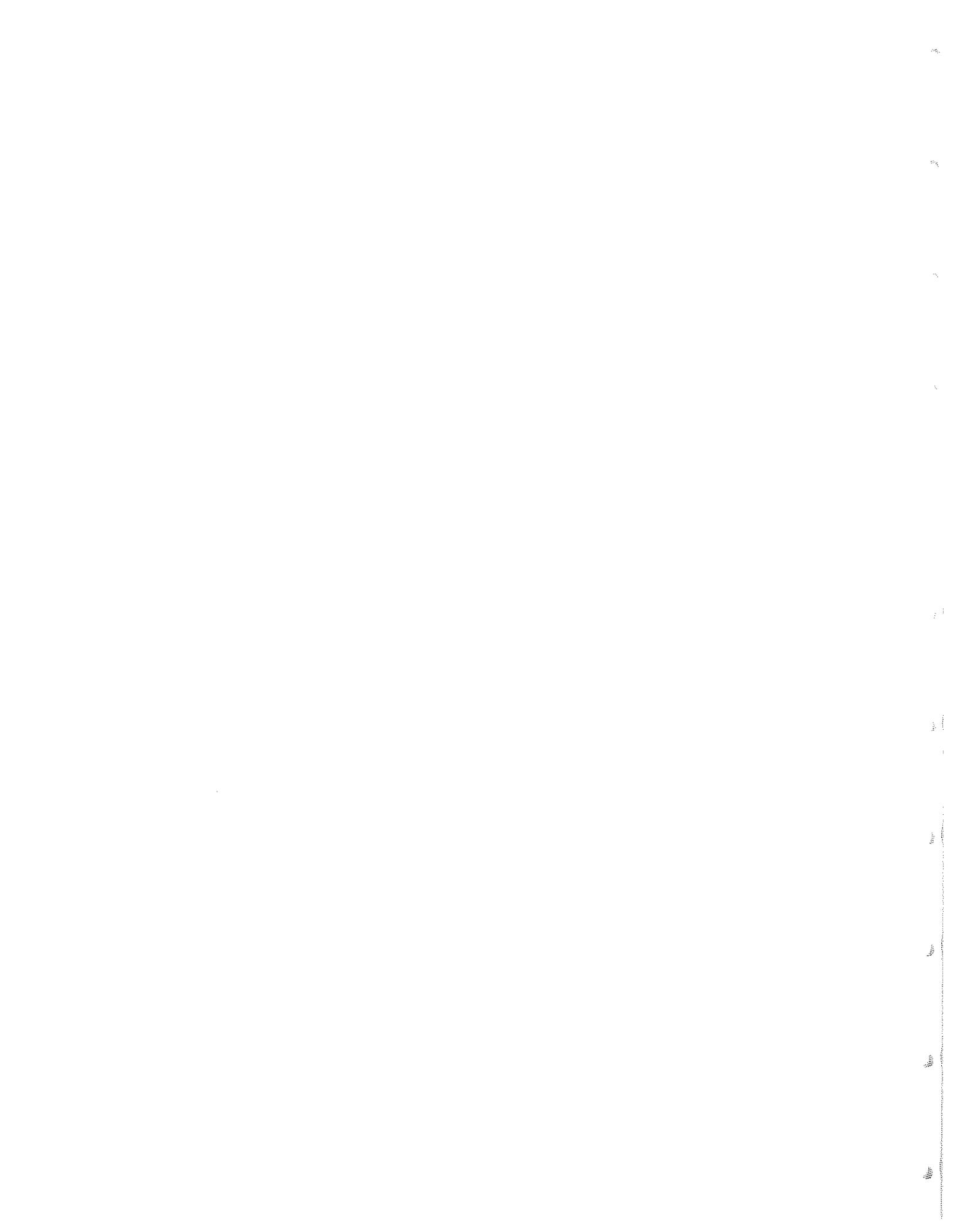
*“Sixth Supplemental Resolution”* means the Sixth Supplemental Resolution adopted by the Commission on June 5, 2003.

*“Subordinate”* means that in the event of: (i) any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization, arrangement or other similar proceedings in connection therewith, relative to the Commission, (ii) any Subordinated Swap Payment is declared or otherwise becomes due and payable under the applicable Derivative Agreement or, (iii) any Event of Default shall occur and be continuing and (1) written notice of such default shall have been given to the Paying Agent and (2) judicial proceedings shall be commenced in respect of such Event of Default; then, for so long as any action described in clause (i), (ii) or (iii) hereof shall not have been remedied or cured in the opinion of the Paying Agent, the Paying Agent shall pay in full all principal, premium and interest on all Senior Obligations before the Swap Provider is entitled to receive any Subordinated Swap Payment, and to that end the Paying Agent shall be entitled to receive for application in payment of the Senior Obligations in accordance with the Resolution any payment or distribution of any kind or character, whether in cash or property or securities, which may be payable or deliverable in any such proceedings in respect of such Subordinated Swap Payment after giving effect to any concurrent payment or distribution in respect to such Senior Obligations.

*“Subordinated Swap Payment”* means any Non-Scheduled Payment on an Uninsured Swap or any uninsured payment on an Insured Swap.

*“Swap Provider”* means, with respect to a Derivative Agreement, the person that is identified in such agreement as the counterparty to, or contracting party with, the Commission under such agreement.

*“Uninsured Swap”* means a Derivative Agreement which is not an Insured Swap.



## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMMISSION

The Commission represents and warrants to, and covenants with, MBIA that:

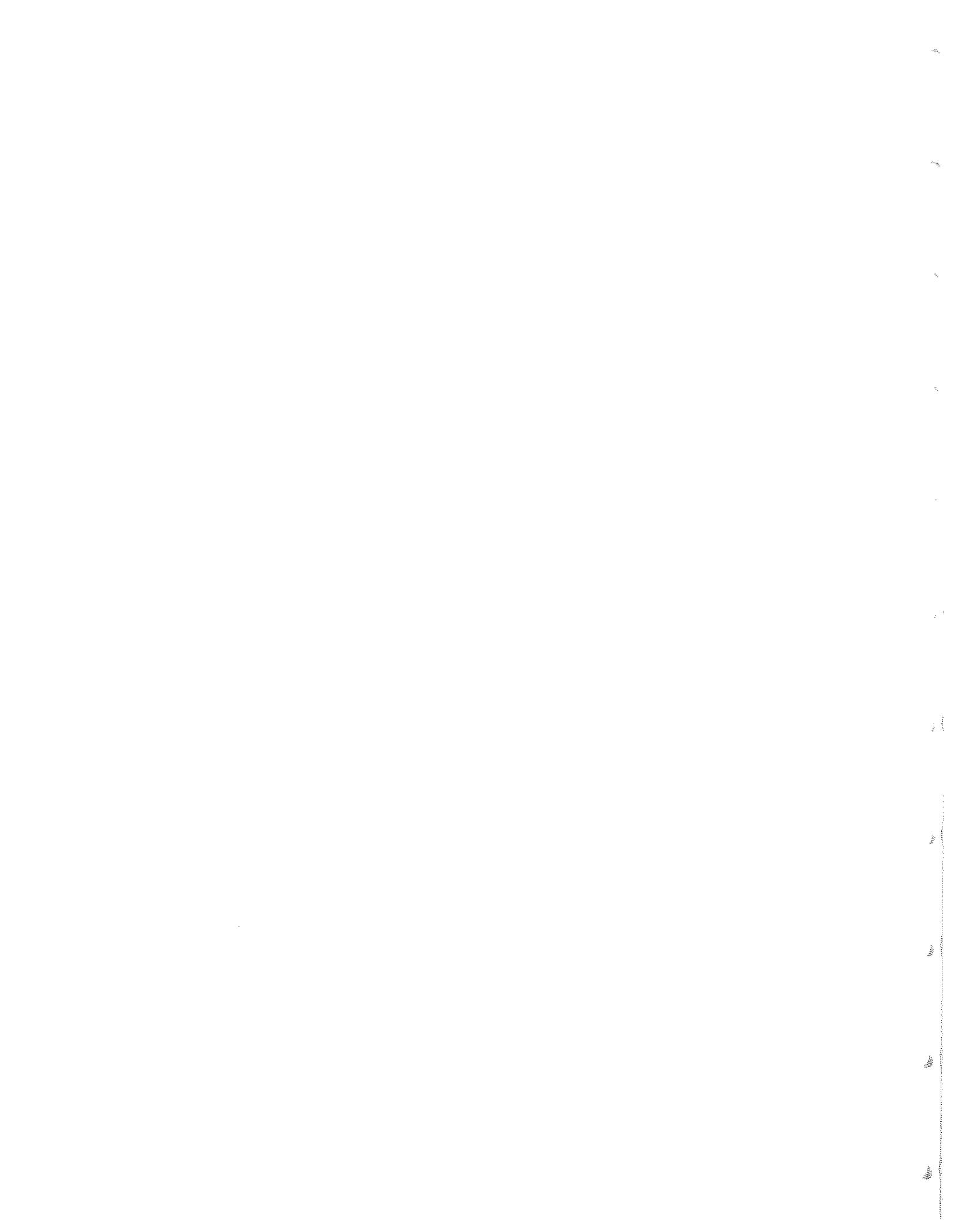
(a) The Commission is a governmental instrumentality of the State of West Virginia created pursuant to the Act.

(b) The Commission has the requisite legal power and authority (corporate and other) to execute and deliver this Agreement and to enter into the transactions contemplated by this Agreement and the Related Documents. This Agreement and the Bond Policy have been authorized by the Commission in the Resolution. The execution and delivery of this Agreement and each of the Related Documents has been duly authorized by the Commission, and all necessary approvals for the execution, delivery and performance of this Agreement and the Related Documents will have been obtained upon execution of this agreement by the Commission.

(c) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of this Agreement by the Commission do not conflict with or result in any material breach or violation of any of the terms, conditions or provisions of any applicable laws, including regulations, or any material agreement or instrument to which the Commission is now a party or by which it is bound, or constitute a default under any of the foregoing which breach or default would materially and adversely affect the consummation of the transactions contemplated hereby and by the terms of the Related Documents.

(d) This Agreement and each Related Document to which the Commission is a party, when executed and delivered by the Commission, assuming the due authorization, execution and delivery by the other parties thereto, will constitute the legal, valid and binding obligations of the Commission, enforceable against the Commission in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general equitable principles.

(e) The Commission shall provide or cause to be provided to MBIA at or promptly after issuance of the Bonds by the Commission (i) conformed copies of this Agreement and each of the Related Documents, (ii) such opinions of legal Counsel of the Commission evidencing necessary or appropriate action by the Commission, and (iii) other documents as may reasonably be requested by MBIA, including documents evidencing any required approvals of the transactions contemplated by this Agreement and the Resolution.



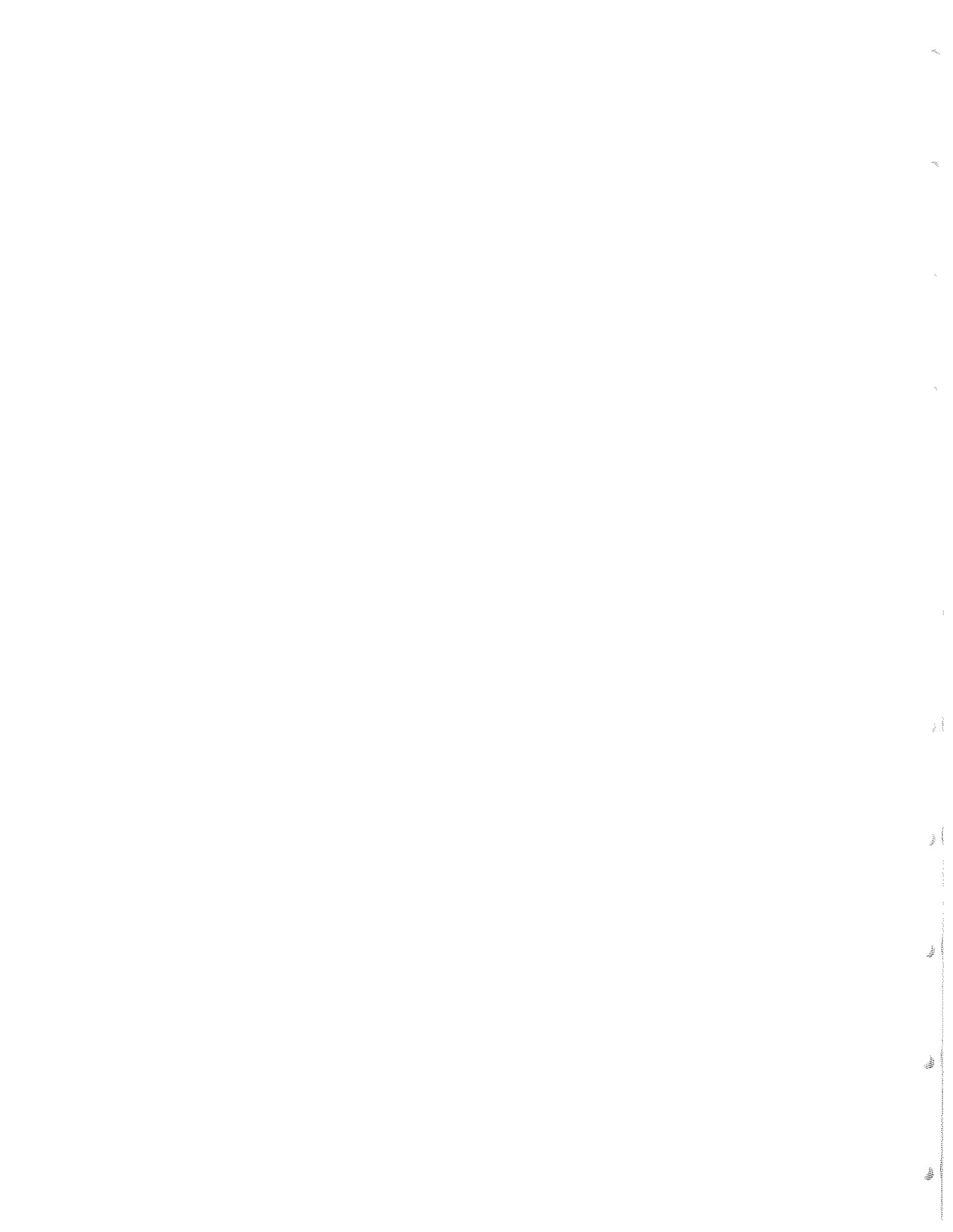
(f) The Commission hereby (i) makes to MBIA the same representations and warranties made by the Commission in each of the Related Documents and (ii) makes the same covenants made by the Commission in each of the Related Documents, which representations, warranties and covenants, as well as the related defined terms contained therein, are incorporated herein by this reference with the same effect as if each and every such representation, warranty and covenant and defined term were set forth herein in its entirety. Any amendment to such representations, warranties and covenants or defined terms in the Bond Indenture and any termination, defeasance, discharge or replacement of the Bond Indenture shall be effective to amend, terminate, replace or discharge such representations, warranties, covenants and defined terms of the specified documents if adopted in accordance with their respective requirements, but shall not be effective to amend this Agreement, without the prior written consent of MBIA.

(g) The Commission hereby agrees to comply, and to cause any person or entity acting as its agent or on its behalf under any of the Related Documents (or as a trustee, agent or other fiduciary with respect to the Bonds or the holders of such Bonds) to comply, with all of the terms and provisions required by MBIA set forth under the "Bond Insurer Requirements" attached as Schedule III to the Certificate of Determination relating to the Bonds and the Bond Policy (the "Insurer Requirements"). The Commission represents and warrants that it has entered into such agreements with each entity acting as its agent or on its behalf (or as trustee, agent or other fiduciary with respect to the Bonds or the holders of such Bonds) including, without limitation, the Municipal Bond Commission, as may be necessary to secure compliance with this clause (g) of Article II and the Insurer Requirements.

(h) The Commission will deliver to MBIA the annual report required to be filed with Credit Providers (as defined in the General Resolution) with respect to the Revenues (as defined in the General Resolution) as required by Section 6.05(b) of the General Resolution, provided that such annual reports are prepared by an independent auditor.

(i) The Commission agrees to permit MBIA to examine, visit and inspect, at any reasonable time, upon reasonable notice, the property constituting the projects financed or refinanced with the net proceeds of the Bonds, and its facilities and any related accounts, books and records, including records of receipts, disbursements, contracts, investments and any other matters relating thereto and to their financial standing, and to supply such reports and information as MBIA may reasonably require.

(j) The Commission's Director of Finance and Facilities or other appropriate official shall, at the reasonable request of MBIA, discuss the Commission's financial matters with MBIA or a designee and provide MBIA with copies of any documents (other than documents the confidentiality of which is protected by law) that are reasonably requested by MBIA or a designee and have a material financial effect on the Commission.



(k) The Commission hereby agrees that it shall not publicly issue any official written statement that may have an adverse effect on the reputation or perception of MBIA in the marketplace without first providing MBIA with at least five business days prior written notice, a copy of the proposed written statement and an opportunity to respond to same.

(l) The Commission hereby agrees that it will not permit any Derivative Agreement, that is not a Qualified Derivative Agreement to be either secured by, or payable under, the Resolution.

(m) The Commission hereby agrees that MBIA will be deemed the 100% owner of the Bonds and shall be entitled as such to consent to amendments under the Related Documents and to receive notices and control remedies with respect to the Related Documents to the extent that the bond owners are allowed to do so under the Related Documents.

### ARTICLE III

#### AGREEMENT TO REIMBURSE

To the extent not prohibited by law, the Commission shall reimburse MBIA for any and all liability, claims, loss, costs, damages, fees of attorneys and other expenses which MBIA may sustain or incur by reason of or in consequence of:

(a) the failure of the Commission to perform or comply with the covenants or conditions of this Agreement or any of the Related Documents;

(b) enforcing any covenants or conditions of this Agreement or any of the Related Documents, including, but not limited to, sums paid, liabilities incurred or expenses paid or incurred in connection with:

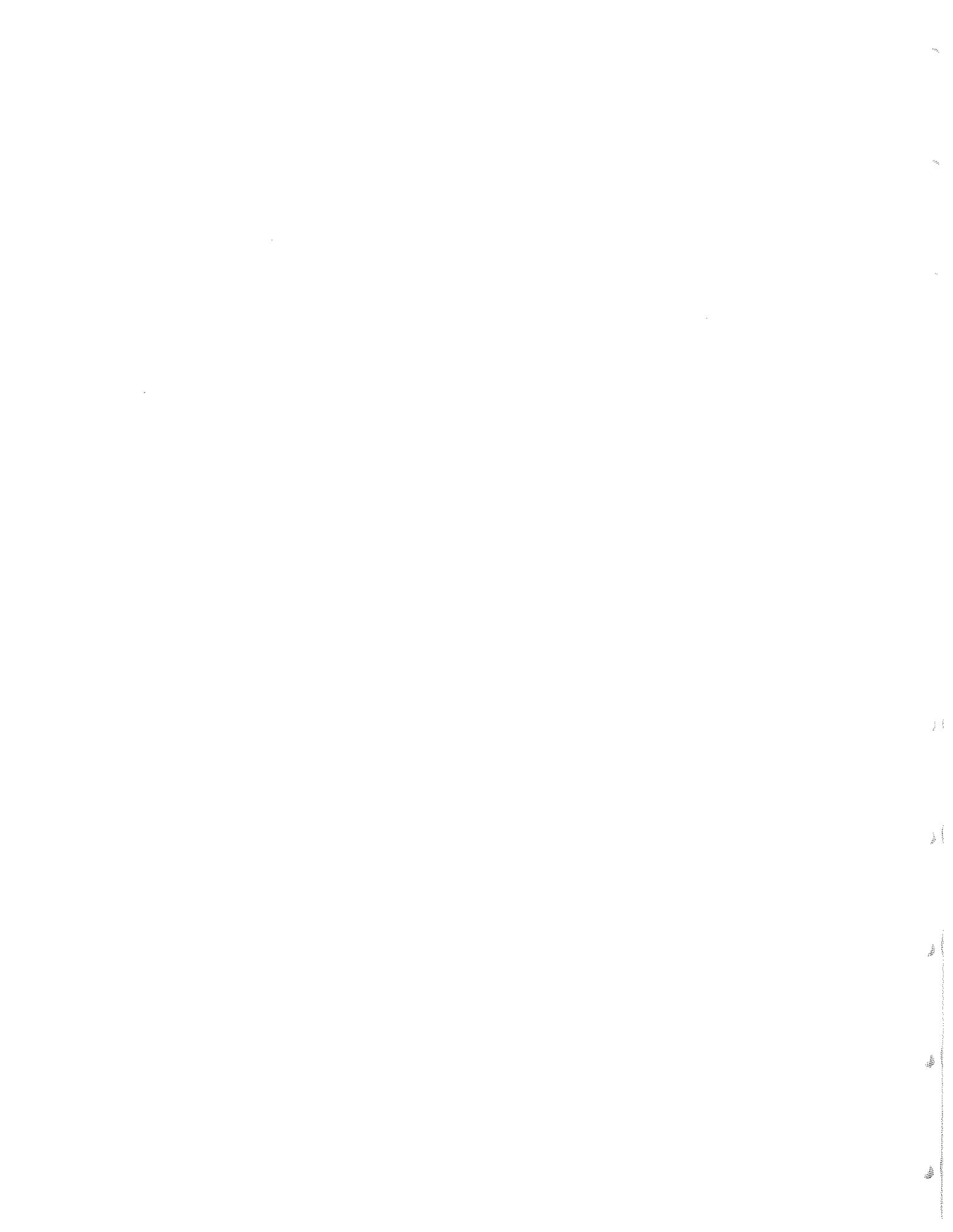
(i) settlement of claims, suits or judgments under the Bond Policy;

(ii) enforcing the terms of this Agreement, the Bond Policy, any of the Related Documents or the transactions contemplated hereby or thereby including all litigation or potential litigation, costs of defense and/or settlement by MBIA of any such threatened or pending action, proceeding, suit or judgment;

(iii) procuring or attempting to procure release from liability authorized by the Bond Policy or the Related Documents, or

(iv) recovering or attempting to recover losses or expenses paid or incurred in connection with this Agreement, the Bond Policy, any of the Related Documents or the transactions contemplated hereby and thereby;

(c) any action, proceeding (administrative, regulatory or legal) or suit threatened or brought in connection with the Bonds; or



(d) reliance by MBIA upon representations made by the Commission regarding defenses to claims made against the Bond Policy.

Costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of MBIA spent in connection with the actions described in clauses (b), (c) and (d) above. The Commission agrees to reimburse MBIA within ten Business Days for all reasonable expenses, including attorneys' fees and expenses, incurred by MBIA in connection with (i) the enforcement by MBIA of the Commission's obligations, or the preservation or defense of any rights of MBIA, under the Related Documents and any other document executed in connection with the issuance of the Bonds and (ii) any consent, amendment, waiver or other action with respect to any Related Document, whether or not granted or approved, together with interest on all such expenses from and including the date incurred to the date of payment at the Reimbursement Rate. In addition, MBIA reserves the right to charge a fee in connection with its review of any such consent, amendment or waiver, whether or not granted or approved.

An itemized statement of payments made by MBIA for any of the purposes specified in this Article III, certified by an officer of MBIA to be due pursuant to this Article III and accompanied by the voucher or vouchers for such payment, shall be prima facie evidence of the liability of the Commission and, if the Commission fails to reimburse MBIA within thirty business days of receipt of such statement of payments, interest shall be computed on such amount from the date of the payment made by MBIA at the rate set out in clause (e) of Article IV hereof.

The foregoing notwithstanding, nothing in this Article III shall be construed to obligate the Commission to reimburse MBIA for any liability, claims, loss, costs, damages, fees of attorneys, or other expenses to the extent any such liabilities, claims, losses, costs, damages, fees, or expenses are caused by, or are the result of, MBIA's negligence or willful misconduct.

#### **ARTICLE IV**

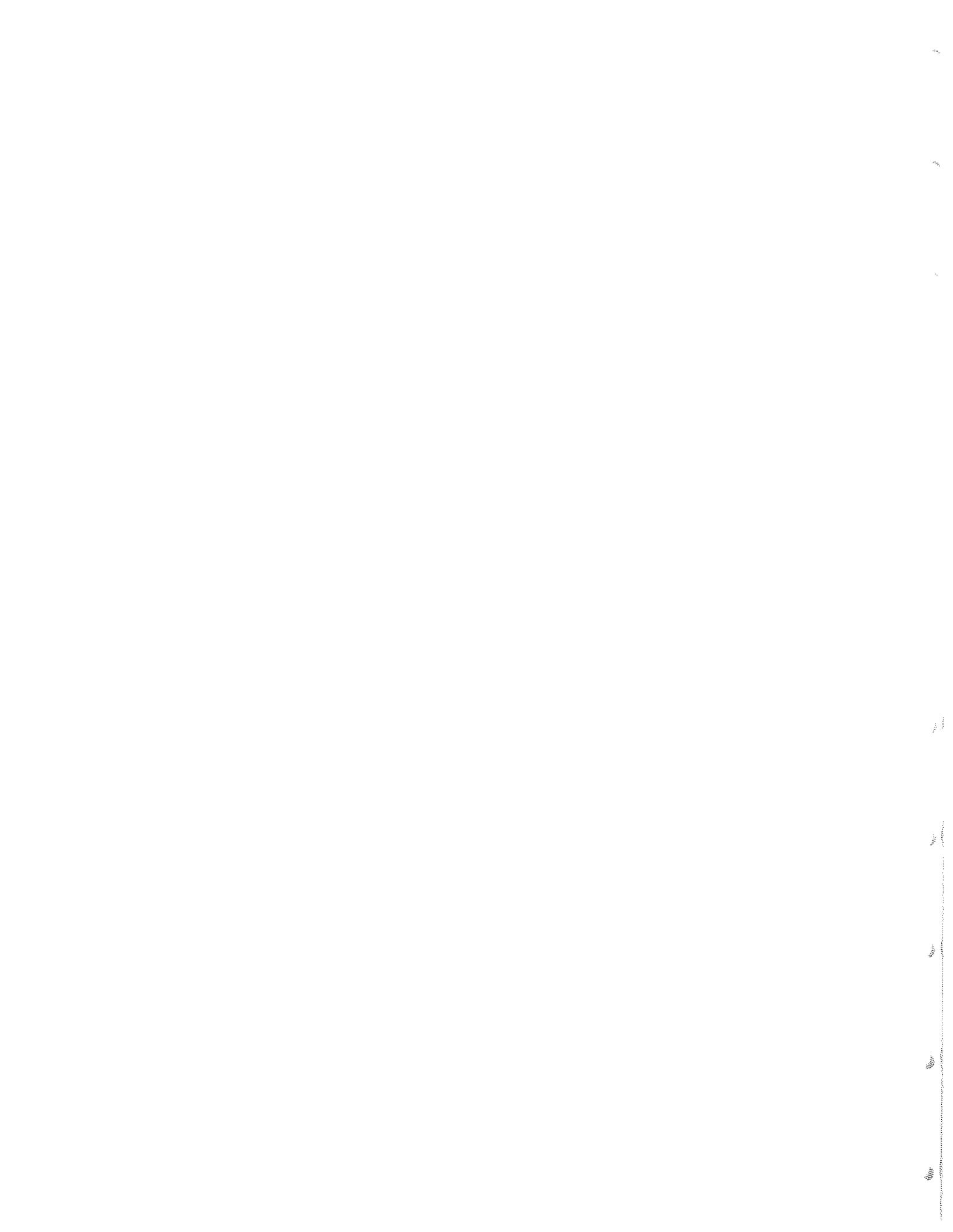
##### **ADDITIONAL REIMBURSEMENT RIGHTS OF MBIA**

The Commission agrees to make the following payments to MBIA:

(a) The premium, as required to be paid pursuant to paragraph 1 of the MBIA Commitment to the extent such payment is not otherwise timely made;

(b) The reimbursement of all payments made by MBIA under the terms of the Bond Policy;

(c) All other amounts required to be paid to MBIA pursuant to the terms of this Agreement or in connection with the transactions contemplated by any of the Related Documents, this Agreement or the Bond Policy upon written notice from MBIA of the amounts so owed;



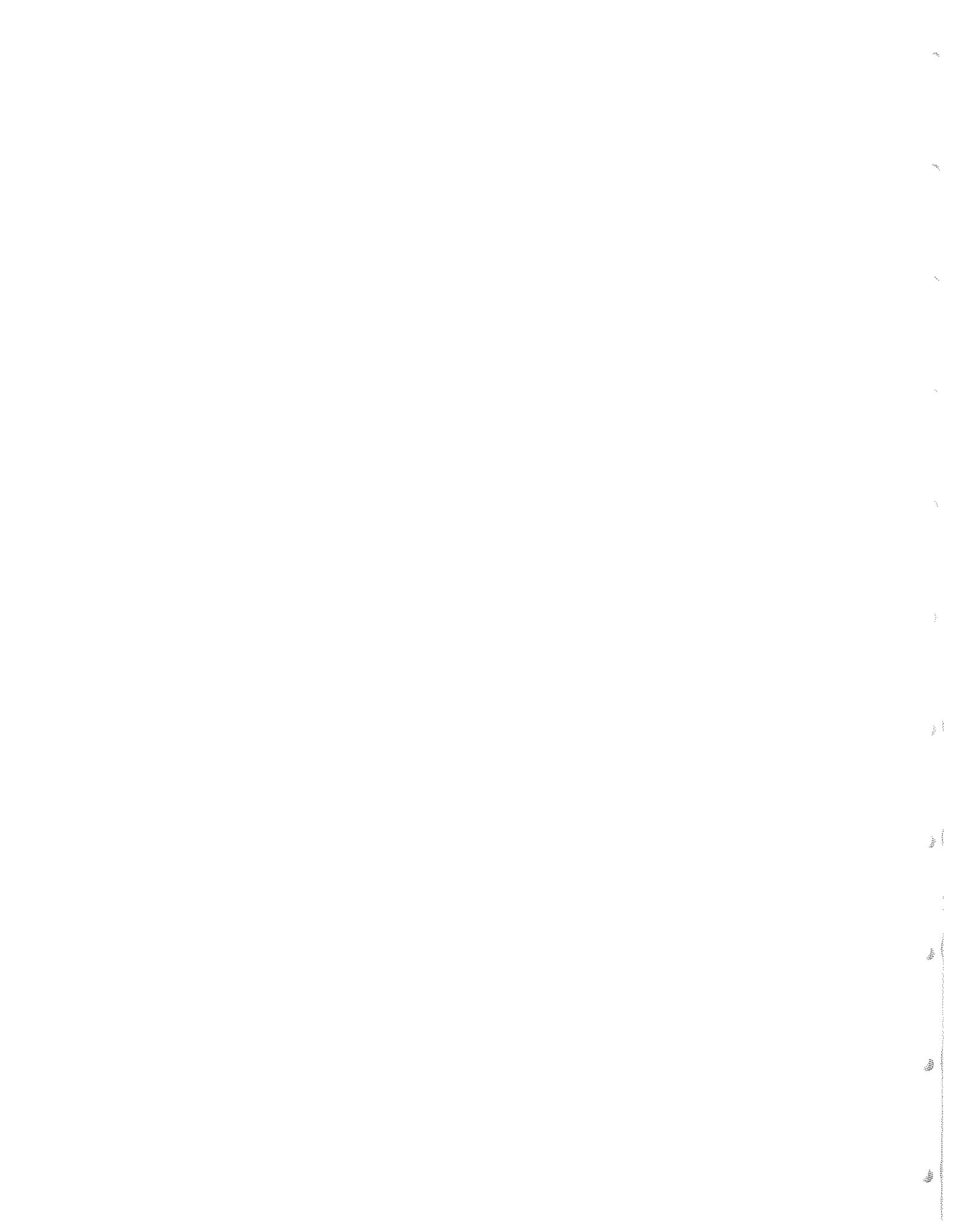
(d) Any and all charges, fees, costs and expenses (including, without limitation, reasonable fees and disbursements of counsel for MBIA and any local counsel retained by MBIA and costs for internal counsel or employees of MBIA) which MBIA may pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in this Agreement or any of the Related Documents; (ii) the pursuit of any remedies thereunder or otherwise afforded by law or equity; (iii) any amendment, waiver, or consent requested of MBIA, or other action with respect thereto, or related thereto, whether or not executed or completed, (iv) the violation by the Commission of any law, rule or regulation, or any judgment, order or decree applicable to it in connection with, or affecting, this Agreement, any of the Related Documents or any of the obligations hereunder or thereunder or (v) any litigation or other dispute in connection with this Agreement or any of the Related Documents or the transactions contemplated hereby or thereby; and

(e) Interest on the amounts owed in clauses (a), (b), (c) or (d) of this Article IV from the date of any payment due or paid as described in clauses (a) or (b) and from the date of receipt of written notice from MBIA, as provided in clause (c) or (d), at the Prime Rate plus 3% per annum. The rate charged by MBIA pursuant to the immediately preceding sentence shall change and take effect on the date specified in Citibank N.A.'s announcement of its change of its prime rate. The rate of interest shall be calculated on the basis of a 365 or 366-day year as the case may be for the actual number of days accrued. If the interest provisions of this clause (e) shall result in an effective rate of interest which, for any period, transcends the limit of the usury or any other laws applicable to the indebtedness created herein, then all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice between or by any party hereto, be applied as additional interest for any later periods of time when amounts are outstanding hereunder to the extent that interest otherwise due hereunder for such periods plus such additional interest would not transcend the limit of the usury or such other laws, and any excess shall be applied upon principal immediately upon receipt of such moneys by MBIA, with the same force and effect as if the Commission had specifically designated such extra sums to be so applied and MBIA had agreed to accept such extra payment(s) as additional interest for such later periods. In no event shall any agreed-to or actual exaction as consideration for the indebtedness created herein transcend the limits imposed or provided by the law applicable to this transaction for the use or detention of money or for forbearance in seeking its collection.

## ARTICLE V

### SUBROGATION AND RIGHTS OF MBIA

To the extent of payments made by MBIA under the Bond Policy, MBIA shall (i) be fully subrogated to the rights of the holders of the Bonds and (ii) have the right to direct remedies under the Related Documents as deemed 100% bond owner to the extent of the bond owners rights thereunder. The Commission will at any time, and from time to time, at the request of



MBIA execute any instrument, document or agreement, and take any other action, that MBIA may consider necessary or desirable to affect this right of subrogation.

## ARTICLE VI

### EVENTS OF DEFAULT

**Section 6.01. Events of Default Described.** The happening of any one or more of the following events shall constitute an “Event of Default” and, upon the occurrence of any such Event of Default, MBIA may exercise the remedies specified herein:

(a) Failure by the Commission to make any payment required by Article III or Article IV hereof;

(b) Any proceeding shall be instituted, with the consent or acquiescence of the Commission, for the purpose of adjusting the claims of creditors pursuant to any federal or state statute now or hereafter enacted;

(c) Any representation of or warranty by the Commission made in this Agreement or the Related Documents is untrue in any material respect;

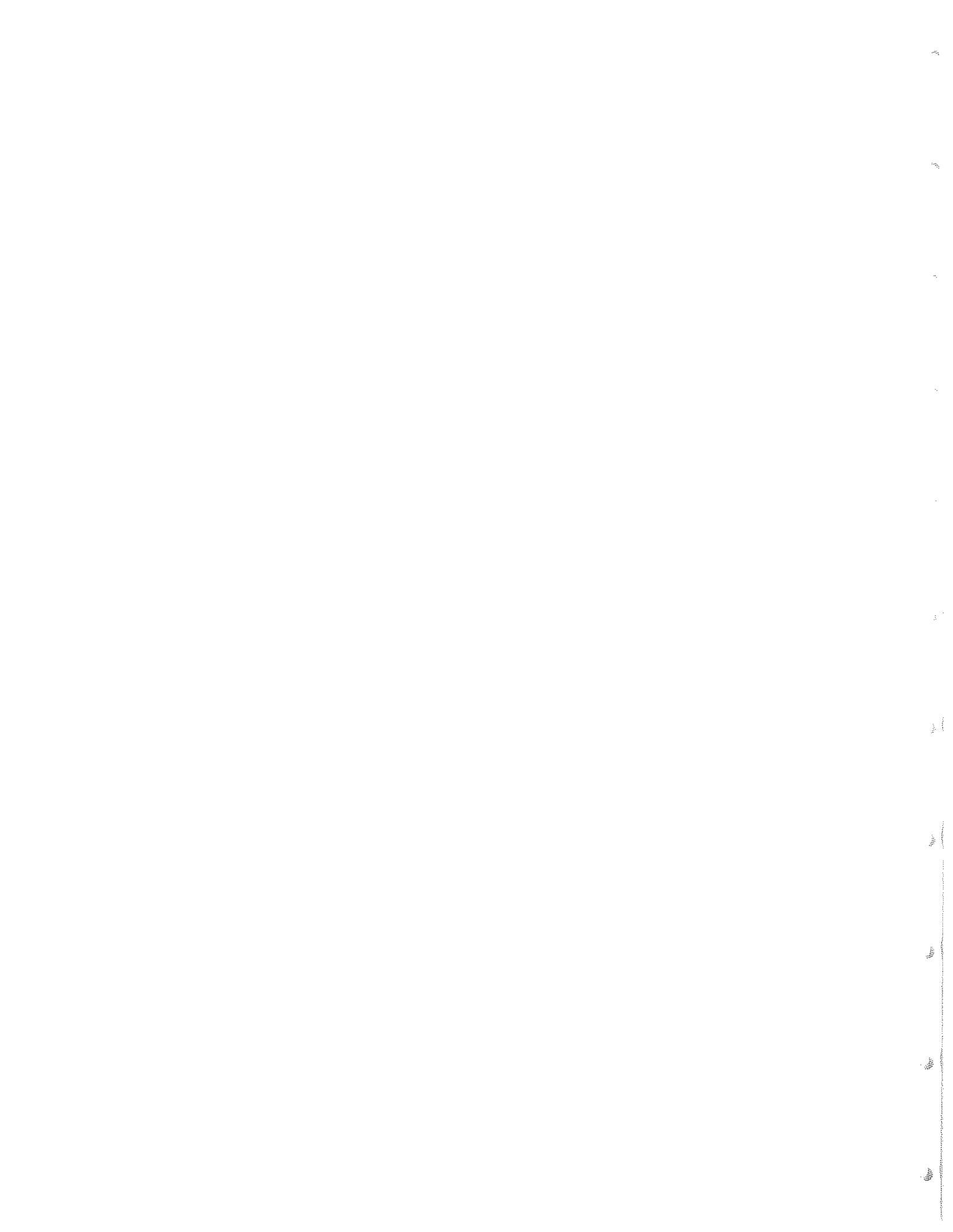
(d) Except as otherwise provided in Section 6.01(a) above, the failure of the Commission to observe or perform in any material respect any covenant, condition or provision of this Agreement, if such failure shall not have been remedied or cured within 30 days after the Commission’s receipt of written notice thereof by MBIA;

(e) The occurrence and continuation of an event of default (however defined but excluding any event described in subparagraphs (a), (b), (c) or (g) of this Section 6.01) under any of the Related Documents, if such event of default shall not have been cured or otherwise remedied within 30 days after the Commission’s receipt of written notice thereof by MBIA;

(f) Any material amendment to a Related Document that has the effect of increasing MBIA’s obligation or limiting MBIA’s rights shall have been made without the prior written consent of MBIA; or

(g) Any material provision of this Agreement or the Related Documents to which the Commission is a party shall at any time for any reason cease to be valid and binding, unless by their terms it ceases to be valid and binding, on the Commission or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the Commission or any governmental agency or authority, or if the Commission shall deny that it has any further liability or obligation under this Agreement or the Related Documents to which it is a party.

**Section 6.02. Remedies.** Whenever an Event of Default referred to in Section 6.01 hereof shall have happened and be continuing, MBIA may take any one or more of the following remedial steps:



- (a) Exercise its rights of subrogation pursuant to Article V hereof;
- (b) Exercise any rights of subrogation it may have under the Bond Policy;
- (c) Take whatever other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due under this Agreement or to enforce performance and observance of any obligation, agreement or covenant of the Commission under this Agreement or under any Related Document; or
- (d) Pursue any remedy it may have under any of the Related Documents.

**Section 6.03. No Remedy Exclusive.** Unless otherwise expressly provided, no remedy herein conferred upon or reserved is intended to be exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Agreement or any Related Document or existing at law or in equity. No delay or omission to exercise any right or power accruing under this Agreement or any Related Document upon the happening of any Event of Default set forth in Section 6.01 hereof shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle MBIA to exercise any remedy reserved to it in this Article VI, it shall not be necessary to give any notice, other than such notice as may be required in this Article VI.

## **ARTICLE VII**

### **SETTLEMENT**

MBIA shall have the exclusive right to decide and determine whether any claim, liability, suit or judgment made or brought on the Bond Policy shall or shall not be paid, compromised, resisted, defended, tried or appealed, and MBIA's decision thereon, if made in good faith, shall be final and binding upon the Commission.

## **ARTICLE VIII**

### **OBLIGATIONS OF THE COMMISSION ABSOLUTE**

The obligations of the Commission to make payments under this Agreement shall be absolute, unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances whatsoever, including, without limitation, the following circumstances:

- (a) any lack of validity or enforceability of any of the Related Documents;
- (b) any amendment or waiver of or any consent to departure from all or any of the Related Documents;
- (c) the existence of any claim, setoff, defense or other right which the Commission may have at any time against the Paying Agent or any other person or entity



other than MBIA, whether in connection with this Agreement, the transactions contemplated herein or in the Related Documents or any unrelated transactions;

(d) any statement or any other document presented under or in connection with the Bond Policy or the MBIA Commitment proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever; or

(e) payment by MBIA under the Bond Policy under circumstances which do not comply with the terms of the related Bond Policy, provided that such payment shall not have constituted negligence or willful misconduct on the part of MBIA; provided, however, that any obligations of the Commission under this Agreement and any of the Related Documents shall only be payable from the Revenues as defined in the Resolution, anything else herein notwithstanding.

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

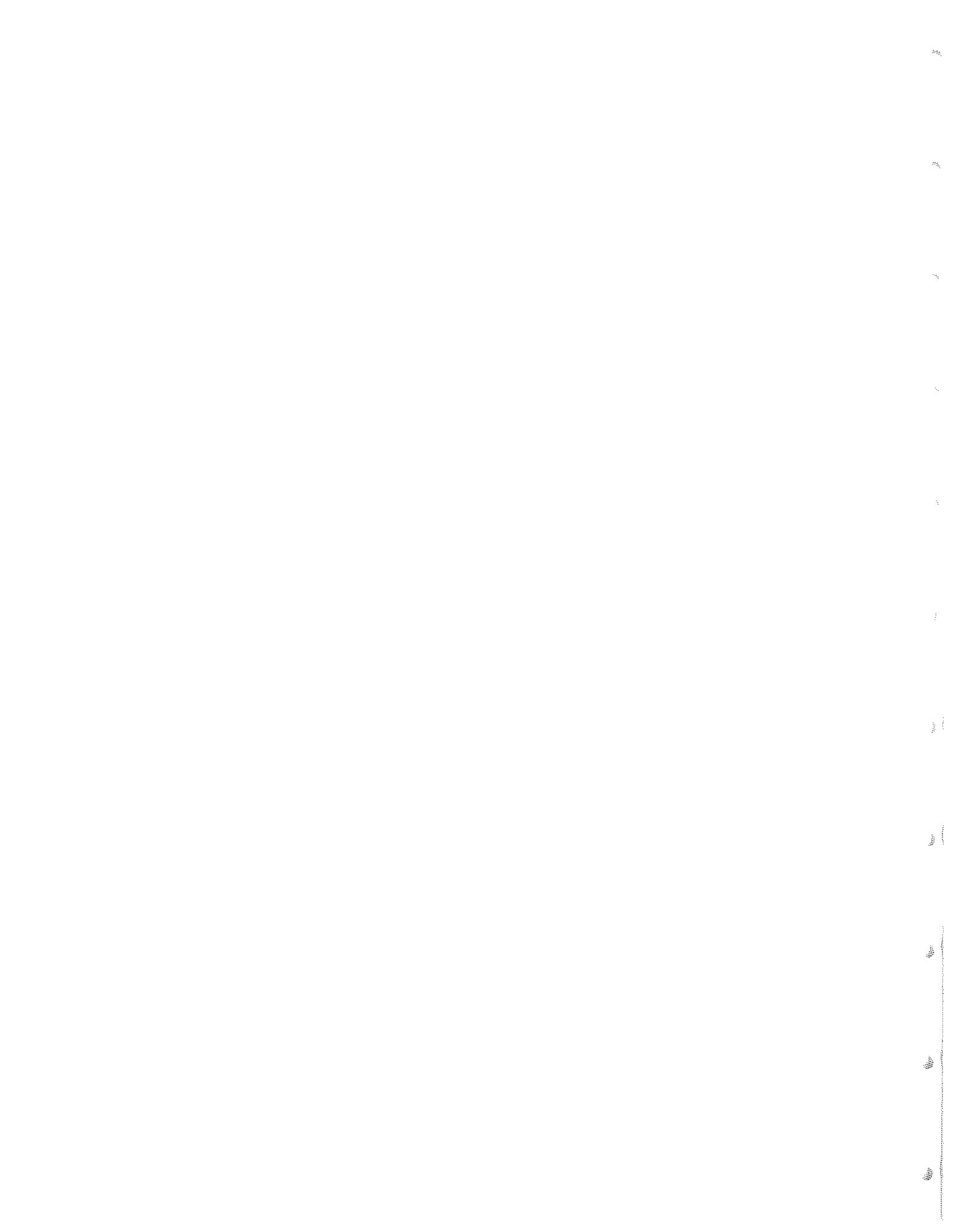
**Section 9.01. Amendments, Changes and Modifications.** This Agreement may be amended, changed, modified, altered or terminated only with the prior written approval of MBIA and the Commission.

**Section 9.02. Governing Law.** This Agreement shall be construed in accordance with the substantive laws of the State of West Virginia, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

**Section 9.03. Notices.** All notices hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

MBIA: MBIA Insurance Corporation  
113 King Street  
Armonk, NY 10504  
Attention: Insured Portfolio Management-East  
Telephone: (914) 273-4545  
Facsimile: (914) 765-3799

Commission: West Virginia Higher Education Policy Commission  
1018 Kanawha Blvd. E, Ste. 700  
Charleston, WV 25301  
Attention: Director of Finance  
Telephone: (304) 348-4463  
Facsimile: (304) 348-7978



Either party may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 9.04. 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 9.05. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**Section 9.06. Further Assurances and Corrective Instruments.** To the extent permitted by law, MBIA and the Commission agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Agreement.

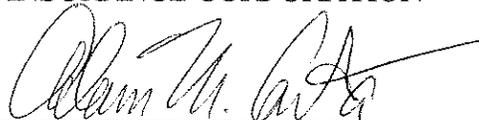
**Section 9.07. No Rights Conferred on Others.** Nothing in this Agreement shall confer any right upon any person other than MBIA and the Commission.

**Section 9.08. Term.** The term of this Agreement shall commence on the date hereof and shall end on the date the Bonds and the interest thereon, and all amounts due and owing to MBIA under this Agreement and all Related Documents and pursuant to any rights of subrogation MBIA may have under this Agreement, the Bond Policy, the Resolution and the Certificate of Determination are paid in full.



IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed in its respective name by its duly authorized officer, all as of the date first above written.

MBIA INSURANCE CORPORATION

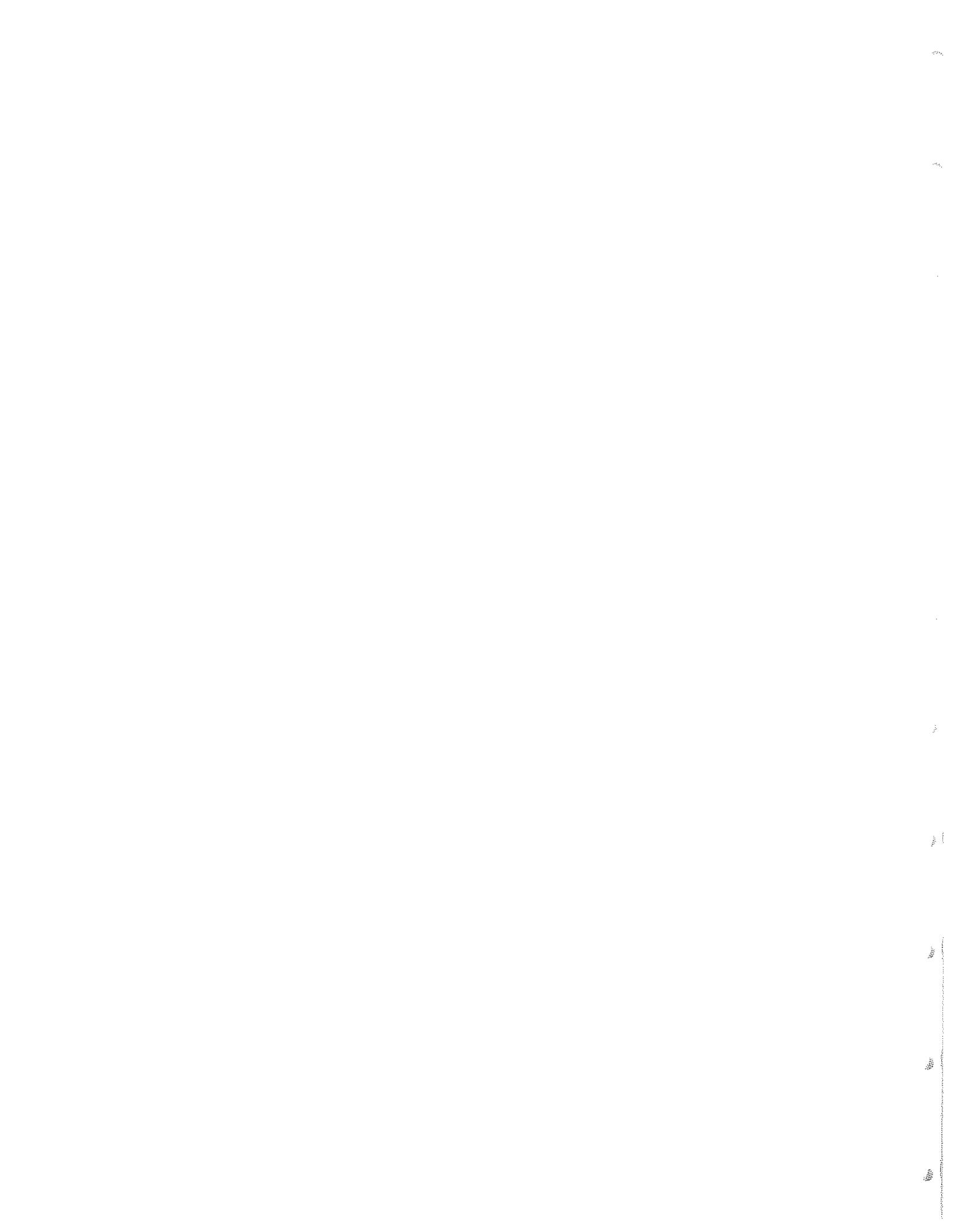
By:   
Title: Assistant Secretary

STATE OF WEST VIRGINIA HIGHER  
EDUCATION POLICY COMMISSION

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Commission Secretary



IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed in its respective name by its duly authorized officer, all as of the date first above written.

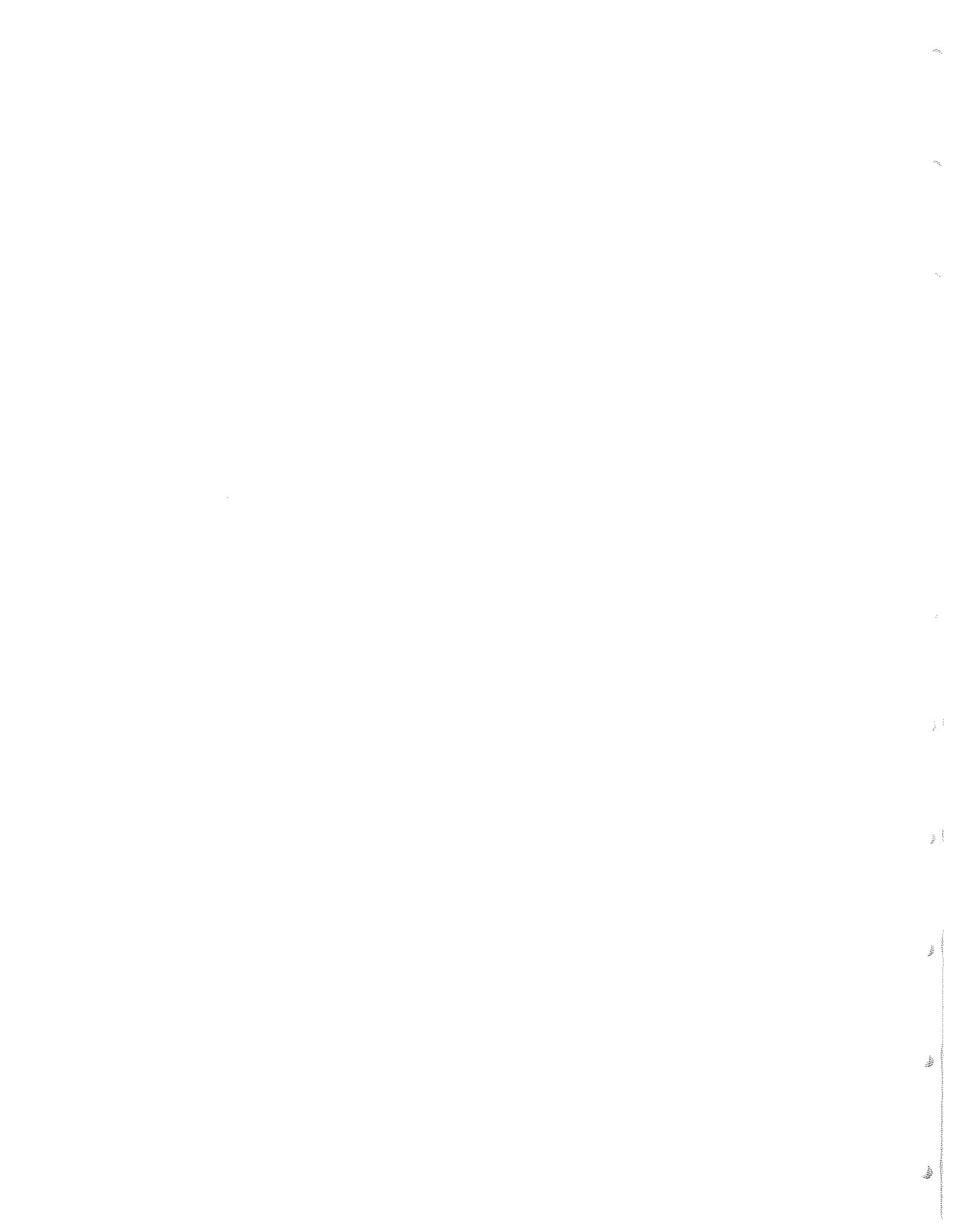
MBIA INSURANCE CORPORATION

By: \_\_\_\_\_  
Title: Assistant Secretary

STATE OF WEST VIRGINIA HIGHER  
EDUCATION POLICY COMMISSION

By: J. Thomas Jones  
Title: Chairman

Attest: Christy G. Hicks  
Commission Secretary



# The Depository Trust Company

A subsidiary of The Depository Trust & Clearing Corporation

## BLANKET ISSUER LETTER OF REPRESENTATIONS

[To be Completed by Issuer]

West Virginia Higher Education Policy Commission  
[Name of Issuer]

July 29, 2003  
[Date]

[For Municipal Issues:  
Underwriting Department—Eligibility; 50th Floor]

[For Corporate Issues:  
General Counsel's Office; 49th Floor]

**The Depository Trust Company**  
55 Water Street  
New York, NY 10041-0099

Ladies and Gentlemen:

This letter sets forth our understanding with respect to all issues (the "Securities") that Issuer shall request be made eligible for deposit by The Depository Trust Company ("DTC").

To induce DTC to accept the Securities as eligible for deposit at DTC, and to act in accordance with DTC's Rules with respect to the Securities, Issuer represents to DTC that Issuer will comply with the requirements stated in DTC's Operational Arrangements, as they may be amended from time to time.

Note:

Schedule A contains statements that DTC believes accurately describe DTC, the method of effecting book-entry transfers of securities distributed through DTC, and certain related matters.

Very truly yours,

West Virginia Higher Education Policy Commission  
(Issuer)

By: *James A. Winter*  
(Authorized Officer's Signature)

James A. Winter, Director of Finance & Facilities  
(Print Name)

Received and Accepted:  
THE DEPOSITORY TRUST COMPANY

By: *Danusa Russo*

1018 Kanawha Boulevard, East, Suite 700  
(Street Address)

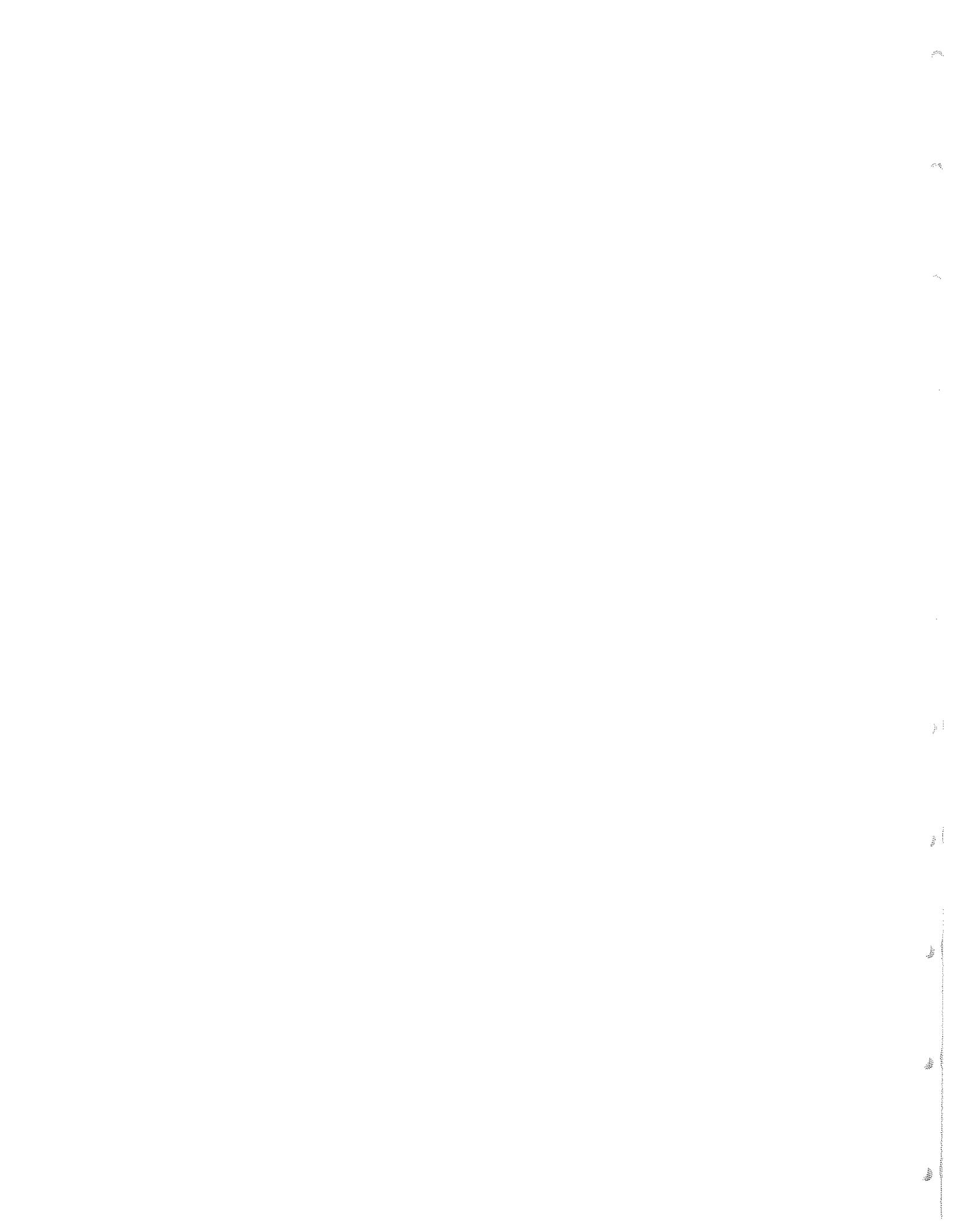
Charleston, WV 25301  
(City) (State) (Country) (Zip Code)

( 304 ) 558-0281  
(Phone Number)

winter@hepc.wvnet.edu  
(E-mail Address)



**The Depository Trust &  
Clearing Corporation**



## (To Blanket Issuer Letter of Representations)

**SAMPLE OFFERING DOCUMENT LANGUAGE  
DESCRIBING BOOK-ENTRY-ONLY ISSUANCE**

(Prepared by DTC—bracketed material may be applicable only to certain issues)

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for [each issue of] the Securities, [each] in the aggregate principal amount of such issue, and will be deposited with DTC. [If, however, the aggregate principal amount of [any] issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.]

2. DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 85 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Government Securities Clearing Corporation, MBS Clearing Corporation, and Emerging Markets Clearing Corporation, (NSCC, GSCC, MBSCC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC’s records reflect only the identity



of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. [Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.]

[6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.]

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

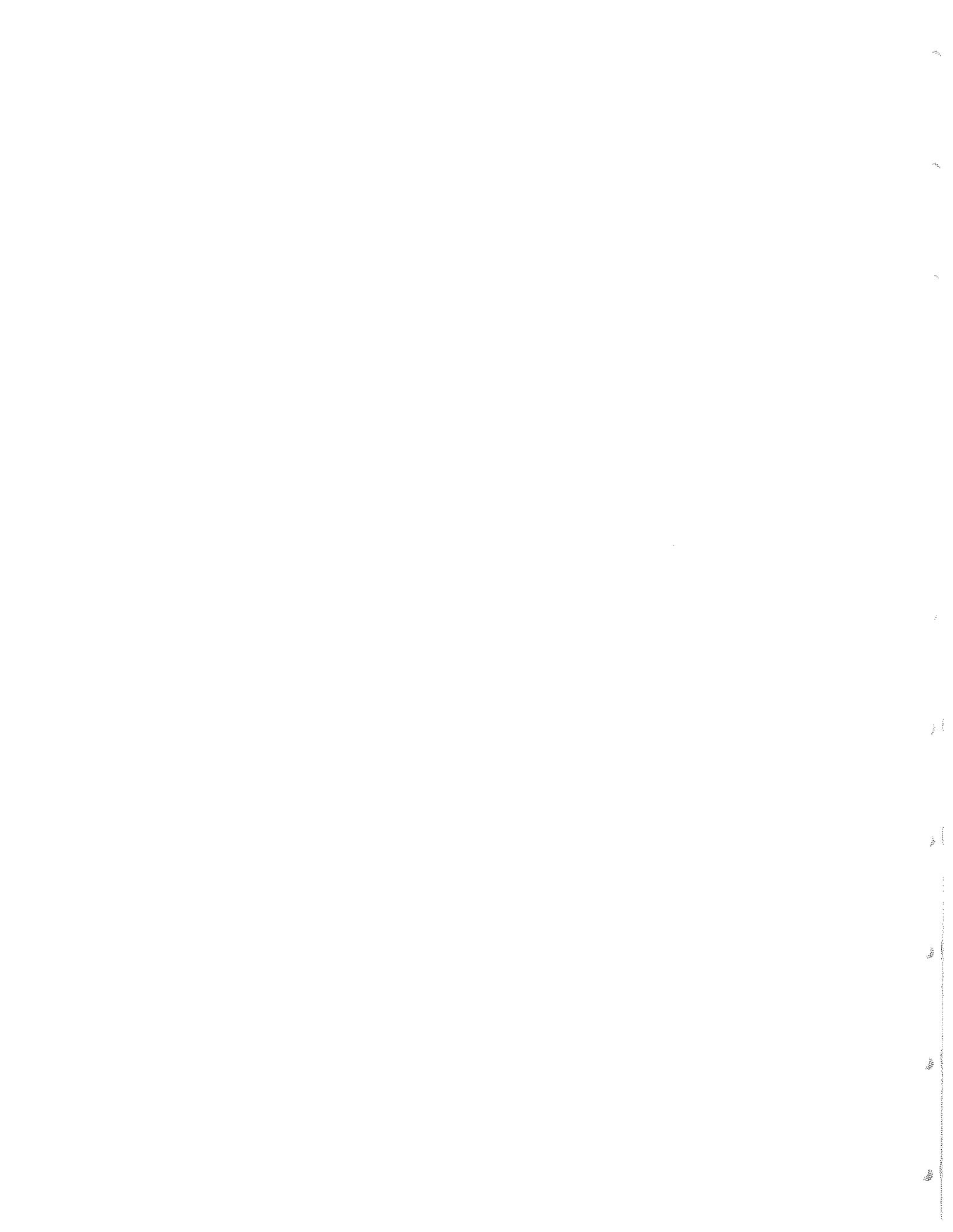
8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC [nor its nominee], Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

[9. A Beneficial Owner shall give notice to elect to have its Securities purchased or tendered, through its Participant, to [Tender/Remarketing] Agent, and shall effect delivery of such Securities by causing the Direct Participant to transfer the Participant's interest in the Securities, on DTC's records, to [Tender/Remarketing] Agent. The requirement for physical delivery of Securities in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Securities are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Securities to [Tender/Remarketing] Agent's DTC account.]

10. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

11. Issuer may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered.

12. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.





**PURPOSE(S) OF FINANCING**

- Cash flow, interim financing
- Single-family housing
- Multifamily housing
- College/university housing
- Hospital
- Health care facilities
- Other/multiple health care purposes (equipment, etc.)
- K-12 school facility
- College/university facility
- Student loans
- Other/multiple educational uses (equipment, etc.)
- Redevelopment, multiple uses
- Pollution control
- Commercial development
- Industrial development
- Airport
- Ports and marinas
- Recreation and sports facilities
- Parks/open space
- Power generation/transmission
- Parking
- Convention center
- Solid waste recovery facilities
- Equipment
- Flood control/storm drainage
- Water supply/storage/distribution
- Wastewater collection and treatment
- Public transit
- Bridges and highways
- Public building
- Street construction and improvements
- Prisons/jails/correctional facilities
- Multiple capital improvements and public works
- Other capital improvements and public works
- Other than listed above

Please specify type/name of project: State of West Virginia Higher Education Policy Commission Variable Rate Demand Revenue Refunding Bonds (College Facilities) 2003 Series C and State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series D

**PARTIES INVOLVED**

Bond Counsel: Spilman Thomas & Battle, PLLC Tax Counsel: \_\_\_\_\_

Trustee: To Be Determined Financial Advisor: \_\_\_\_\_

Auditor: \_\_\_\_\_

Lead Underwriter: Salomon Smith Barney, Inc., Ferris, Baker Watts, Inc. and Crews & Associates, Inc.

(or PURCHASER: \_\_\_\_\_ or PLACEMENT AGENT: \_\_\_\_\_)

Name of individual (representing  Bond Counsel,  Issuer,  Financial Advisor, or  Lead Underwriter) who completed this form and may be contacted for information:

Name: Lee O. Hill, Esquire  
 Firm/Agency: Spilman Thomas & Battle, PLLC  
 Address: PO Box 273, Charleston, WV 25321-0273  
 Phone: (304) 340-3802 Date of Completion: July 9, 2003

Contact person at issuing agency, if different from above:

Name: James Winter  
 Title: Director of Finance and Facilities, West Virginia Higher Education Policy Commission  
 Address: 1018 Kanawha Blvd, East, Suite 700 Charleston, WV 25301  
 Phone: (304) 558-0277

REPORT OF FINAL SALE  
 West Virginia State Treasurer's Office  
 State Capitol Complex, Suite E-145  
 Charleston, WV 25305  
 (304) 558-5000

Completion of this form is requested to provide information which was not available when the "Report of Proposed Debt Issuance" was filed with the Treasurer's Office or to verify information which was reported as "proposed." **Additionally, please send a copy of the official statement (or offering circular) with this form to the Treasurer's Office.**

**GENERAL INFORMATION**

NAME AND ADDRESS

OF ISSUER: West Virginia Higher Education Policy Commission  
1080 Kanawha Blvd, East, Suite 700  
Charleston, WV 25301

ISSUE NAME: \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A

DATED : August 13, 2003 PRINCIPAL AMOUNT SOLD \$22,160,000

INTEREST COST: 4.087042% (Please provide True Interest Cost)

Variable (Please specify)

OFFICIAL STATEMENT:       Enclosed       To be sent       None available

COMPLETE TRANSCRIPT:       Enclosed       To be sent       None available

UNDERWRITER OR PURCHASER: Citigroup Global Markets Inc., Ferris, Baker Watts, Inc. and Crews & Associates, Inc.

IS THE INTEREST ON THE DEBT EXEMPT FROM TAXATION?

Under State law:       NO (taxable)       YES (tax-exempt)

Under Federal law:       NO (taxable)       YES (tax-exempt)

If the issue is Federally tax-exempt, is interest a specific preference item for the purpose of alternative minimum tax?

Yes, preference item       No, not a preference item

IS ANY PORTION OF THE DEBT FOR REFUNDING?

No       Yes, amount of this issue which is for refunding of existing debt \$22,774,575.00

LO:1 19 AUG 2003

WEST VIRGINIA

**ISSUANCE COSTS**

Please indicate the parties involved and the applicable fees. An attachment may be provided in lieu of this form.

Bond Counsel.....	\$25,000.00
Underwriter's Counsel.....	\$25,000.00
Swap Advisor .....	\$4,096.60
Insurer Counsel.....	\$10,000.00
Trustee.....	\$4,000.00
Rating Agency #1 (S&P).....	\$18,000.00
Rating Agency #2 (Moody's).....	\$17,500.00
POS/OS Publication Costs.....	\$5,000.00
Liquidity Provider Counsel.....	\$10,000.00
Escrow Verification Agent .....	\$3,000.00
Liquidity Provider .....	\$3,724.18
Miscellaneous.....	\$5,000.00

**CREDIT RATING**

INDICATE CREDIT RATING: (For example, "AAA" or "Aaa")

**RATED**  
 Standard & Poor's: A+ Fitch:  
 Moody's: A1 Other:

**NOT RATED**

**CREDIT ENHANCEMENT**

WAS THE ISSUE INSURED OR GUARANTEED?  No  Bond insurance  Letter(s) of credit  
 Other

GUARANTOR'S NAME: MBIA Insurance Corporation

**DISCOUNT/PREMIUM**

The Bond was sold at:  Par  A Discount  A Premium

If Bond was sold at a Premium, please indicate amount: \$15,840,000.00

If Bond was sold at a Discount, please indicate: Original Issue Discount \$6,320,000.00

Underwriter's Discount \$78,587.20

**MATURITY SCHEDULE**

Please attach a maturity schedule for the bond issue if an official statement is not submitted with this form.

Provide the following information:

- 1) Maturity Date                      2) Principal Amount                      3) Interest Rate

## OTHER INFORMATION

SOURCE OF FUNDS UTILIZED FOR REPAYMENT OF THE ISSUE: Revenues from the West Virginia Higher Education Policy Commission.

Name of individual (representing  Bond Counsel,  Issuer,  Financial Advisor, or  Lead Underwriter) who completed this form and may be contacted for information:

Name: Lee O. Hill

Firm/Agency: Spilman Thomas & Battle, PLLC

Address: P.O. Box 273, Charleston, WV 25321

Phone: (304) 340-3802

Date of Completion: August 13, 2003

Contact person at issuing agency, if different from above:

Name: James A. Winter

Title: Director of Finance and Facilities

Address: 1080 Kanawha Blvd, East, Suite 700, Charleston, WV 25301

Phone: (304) 558-0281 ext. 206



**STANDARD  
& POOR'S**

Vincent Orgo  
Administrative Officer  
55 Water Street, 38th Floor  
New York, NY 10041-0003  
tel 212 438-2074  
vincent\_orgo@standardandpoors.com

reference no.: 40143368

August 12, 2003

MBIA Insurance Corporation  
113 King Street  
Armonk, NY 10504  
Attention: Ms. Lisa A. Wilson, Vice President Manager DAC Group

Re: *\$22,160,000 State of West Virginia Higher Education Policy Commission, West Virginia, Revenue Refunding Bonds (College Facilities), 2003 Series A, dated: August 1, 2003, due: April 1, 2004-2012, (POLICY #42079)*

Dear Ms. Wilson:

Standard & Poor's has reviewed the rating on the above-referenced obligations. After such review, we have changed the rating to "AAA" from "A+" and changed the outlook to not meaningful from stable. The rating reflects our assessment of the likelihood of repayment of principal and interest based on the bond insurance policy your company is providing. Therefore, rating adjustments may result from changes in the financial position of your company or from alterations in the documents governing the issue.

The rating is not investment, financial, or other advice and you should not and cannot rely upon the rating as such. The rating is based on information supplied to us by you but does not represent an audit. We undertake no duty of due diligence or independent verification of any information. The assignment of a rating does not create a fiduciary relationship between us and you or between us and other recipients of the rating. We have not consented to and will not consent to being named an "expert" under the applicable securities laws, including without limitation, Section 7 of the Securities Act of 1933. The rating is not a "market rating" nor is it a recommendation to buy, hold, or sell the obligations.

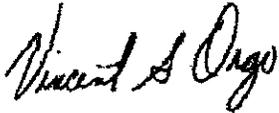
This letter constitutes Standard & Poor's permission to you to disseminate the above-assigned rating to interested parties. Standard & Poor's reserves the right to inform its own clients, subscribers, and the public of the rating. Standard & Poor's relies on the issuer and its counsel, accountants, and other experts for the accuracy and completeness of the information submitted in connection with the rating. This rating is based on financial information and documents we received prior to the issuance of this letter. Standard & Poor's assumes that the documents you have provided to us are final. If any subsequent changes were made in the final documents, you must notify us of such changes by sending us the revised final documents with the changes clearly marked.

Ms. Lisa A. Wilson  
Page 2  
August 12, 2003

Standard & Poor's is pleased to be of service to you. For more information please visit our website at [www.standardandpoors.com](http://www.standardandpoors.com). If we can be of help in any other way, please contact us. Thank you for choosing Standard & Poor's and we look forward to working with you again.

Sincerely yours,

Standard & Poor's Ratings Services  
a division of The McGraw-Hill Companies, Inc.



Vincent Orgo  
Administrative Officer

ak



**Moody's Investors Service**

*99 Church Street  
New York, New York 10007*

August 13, 2003

MBIA Insurance Corporation  
113 King Street  
Armonk, New York 10504

To Whom It May Concern:

Moody's Investors Service has assigned the rating of Aaa (MBIA Insurance Corporation Insured - Policy No. 42079 ) to the **\$22,160,000.00 , State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A** , dated August 1, 2003 which sold through negotiation on July 31, 2003. The rating is based upon an insurance policy provided by MBIA Insurance Corporation.

Should you have any questions regarding the above, please do not hesitate to contact the assigned analyst, Margaret Kessler at (212) 553-7884.

Sincerely yours,

*Margaret Kessler*

Margaret L. Kessler  
Vice President/Senior Analyst

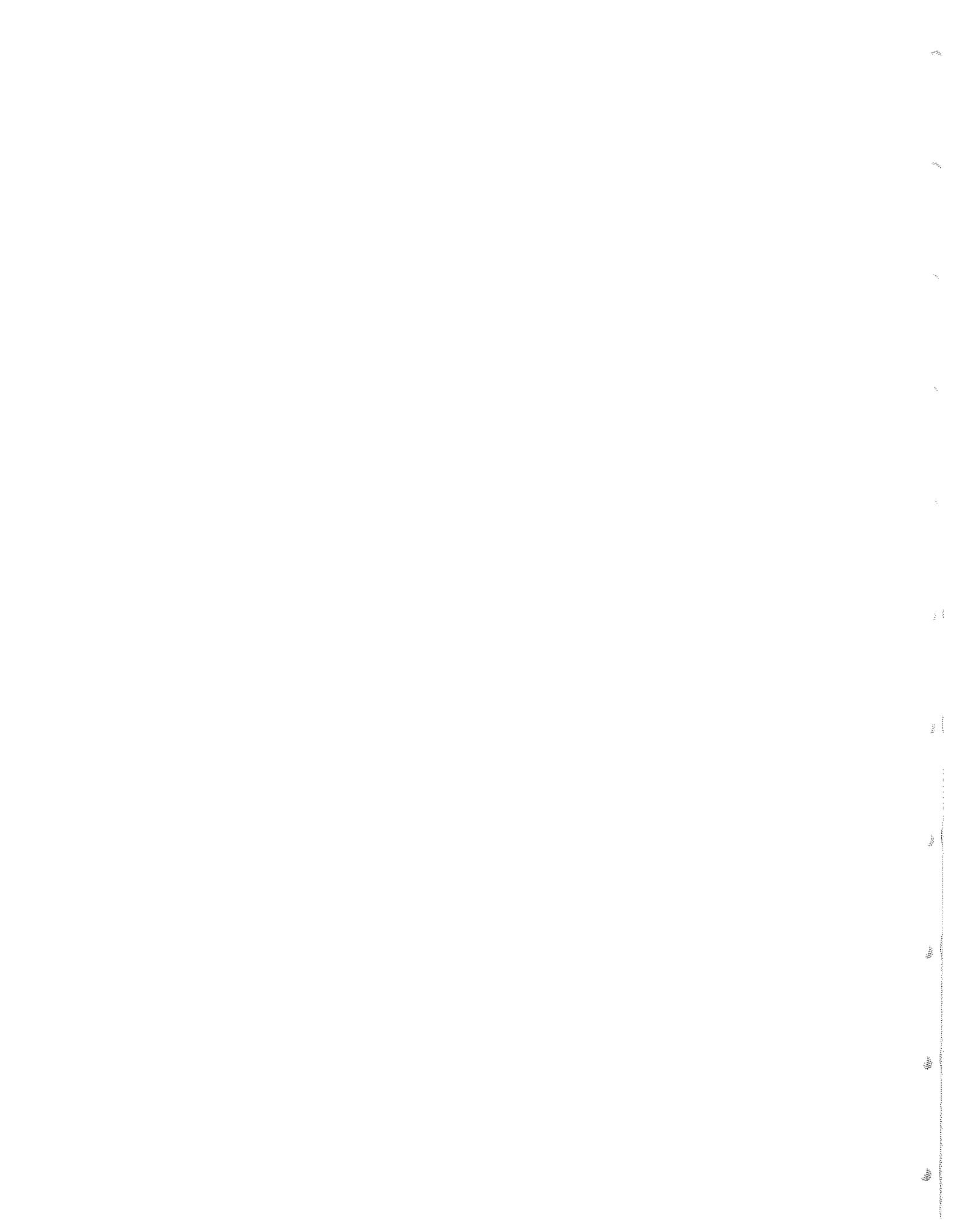
MK:SY



**\$22,160,000**  
**STATE OF WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**  
**REVENUE REFUNDING BONDS (COLLEGE FACILITIES) 2003 A**

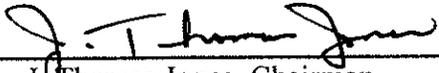
**MEMORANDUM OF UNDERSTANDING**

The Treasurer hereby agrees, in order to provide security to the holders of revenue bonds (the "Bonds") issued by the Higher Education Policy Commission and the predecessors thereto under the General Resolution adopted September 9, 1992 by the Board of Trustees of the University of West Virginia and the General Resolution adopted September 9, 1992 by the Board of Directors of the State College System (as amended and supplemented from time to time, the "General Resolutions"), and payable from the tuition and registration fees paid by students at West Virginia State Institutions of Higher Education (each an "Institution") pursuant to West Virginia Code § 18-12B and West Virginia Code § 18B-1, 2, 3 and 10, to prohibit any withdrawals from the capital improvement funds held by the Treasurer on behalf of each Institution after each September 1 and February 1, beginning on September 1, 2003, until the amounts on deposit in such funds on and after each such September 1 and February 1 equal one-half of the debt service on the Bonds for the 12-month period beginning on such September 1 of each year (a "Bond Year") allocable to such Institution and will only release funds for such Institution's use in excess of the Institution's allocable amount of such debt service. The Treasurer agrees to continue to disburse the amounts retained as debt service on the Bonds to the Municipal Bond Commission and the Trustee for the Bonds, as the case may be, at the times heretofore or hereafter provided by the General Resolutions for making such debt service transfers. The Higher Education Policy Commission agrees to furnish the Treasurer with the



allocable amount payable by each Institution as debt service on the Bonds for each ensuing Bond Year prior to September 1 of such Bond Year.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

By:   
J. Thomas Jones, Chairman

STATE OF WEST VIRGINIA

By: \_\_\_\_\_  
John Perdue, State Treasurer

MUNICIPAL BOND COMMISSION

By:   
R. Witter Hallan, Executive Director



allocable amount payable by each Institution as debt service on the Bonds for each ensuing Bond Year prior to September 1 of such Bond Year.

WEST VIRGINIA HIGHER EDUCATION  
POLICY COMMISSION

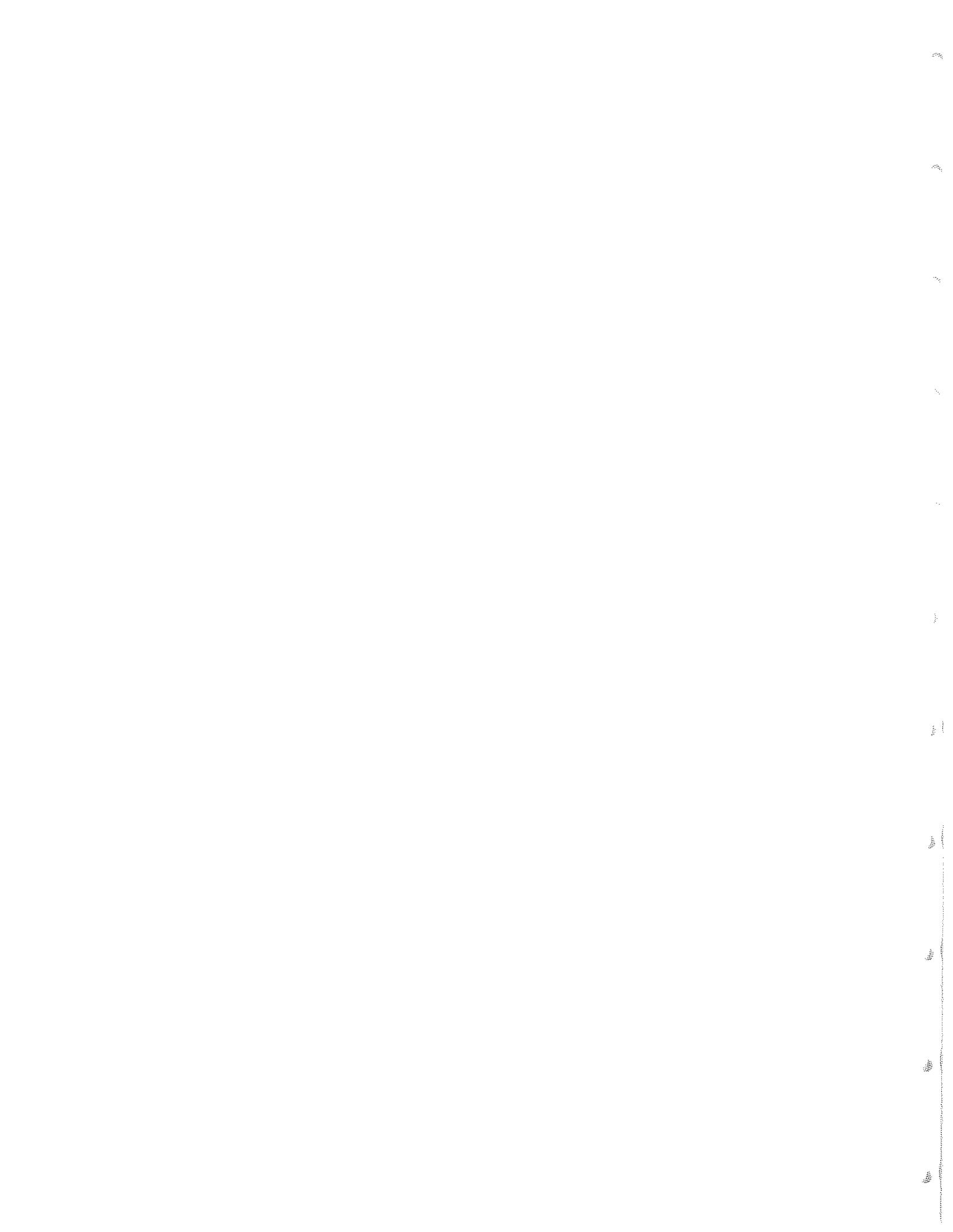
By: \_\_\_\_\_  
J. Thomas Jones, Chairman

STATE OF WEST VIRGINIA

By:  \_\_\_\_\_  
John Perdue, State Treasurer

MUNICIPAL BOND COMMISSION

By: \_\_\_\_\_  
Witter Hallan, Executive Director



**STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION**

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**REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A**

## CAUSEY DEMGEN & MOORE INC.

Certified Public Accountants and Consultants

Suite 4650  
1801 California Street  
Denver, Colorado 80202-2681  
Telephone: (303) 296-2229  
Facsimile: (303) 296-3731  
www.cdmcpa.com

August 13, 2003

West Virginia Higher Education  
Policy Commission  
1018 Kanawha Boulevard, East, Suite 700  
Charleston, West Virginia 25301

Citigroup Global Markets Inc.  
390 Greenwich Street  
New York, New York 10013

Spilman Thomas & Battle, PLLC  
300 Kanawha Boulevard East  
Charleston, West Virginia 25301-0273

MBIA Insurance Corporation  
113 King Street  
Armonk, New York 10504

We have completed our engagement to verify the mathematical accuracy of (a) the computations relating to the adequacy of cash plus U.S. Treasury Securities to be held in escrow to pay the debt service requirements of the State College System Revenue Refunding Bonds, Series 1992 (herein referred to as the "Refunded Bonds") issued by the State of West Virginia Board of Directors of the State College System (herein referred to as the "Board"), (b) the computations supporting the conclusion of Bond Counsel that the Revenue Refunding Bonds (State College Facilities), 2003 Series A (herein referred to as the "Refunding Bonds") to be issued by the State of West Virginia Higher Education Policy Commission (herein referred to as the "State") are not "arbitrage bonds" under Section 148 of the Internal Revenue Code of 1986, as amended, and (c) the present value savings associated with this current refunding transaction. We express no opinion on the attainability of the assumptions or the tax-exempt status of the Refunding Bonds. Our verification was performed solely on the schedules of proposed transactions, provided by Citigroup Global Markets Inc. (herein referred to as the "Underwriter"), and which are reflected in Exhibits A through F, which were prepared by us in performing the verification of the mathematical accuracy of the computations in the schedules provided.

The accompanying exhibits of proposed transactions were prepared on the basis of assumptions and in accordance with the procedures described herein. We did not independently confirm the information used with outside parties.

### **OUR UNDERSTANDING OF THE TRANSACTION**

The Board issued its State College System Revenue Refunding Bonds, Series 1992 (herein referred to as the "1992 Bonds") on December 2, 1992 to advance refund certain prior issues of bonds (herein collectively referred to as the "Prior Obligations"). A portion of the proceeds of the 1992 Bonds was used to purchase U.S. Treasury Securities (herein referred to as the "1992 Securities") which were placed into an escrow account to refund the Prior Obligations. A portion of the 1992 Securities remains outstanding as of August 13, 2003.

**CDM**

West Virginia Higher Education  
Policy Commission  
August 13, 2003  
Page 2

The Refunding Bonds are to be issued on August 13, 2003 to current refund the Refunded Bonds. A portion of the proceeds of the Refunding Bonds will be used to purchase a U.S. Treasury Security which will be placed into an escrow account, together with cash and a U.S. Treasury Security purchased with the Debt Service Fund contribution associated with the Refunded Bonds, to current refund the Refunded Bonds.

The Escrow Agent will pay the debt service requirements of the Refunded Bonds on October 1, 2003 and will redeem the Refunded Bonds, at a redemption price equal to 102% of par, on such date.

#### **ESCROW ACCOUNT TRANSACTIONS**

We verified the mathematical accuracy of the accompanying calculations of the escrow account transactions proposed to current refund the Refunded Bonds.

The presently outstanding debt service requirements of the Refunded Bonds will be satisfied by the purchase of U.S. Treasury Securities (as described in Exhibit A-3) plus \$.71 in cash. The securities and cash will be placed in an irrevocable escrow account and held therein until the Refunded Bonds are redeemed as previously described.

We read a copy of the Official Statement for the Refunded Bonds insofar as such obligations are described with respect to principal outstanding, interest rates, maturity dates, and redemption provisions. We assumed this document to be accurate, and all debt service payments on the Refunded Bonds to be current as of August 13, 2003. We compared the above information set forth in such Official Statement with the related information contained in the schedules provided to us and found the information to be consistent.

Based on the procedures and information set forth above, the computations provided to us and represented in Exhibits A through B, which indicate that the cash and securities proposed to be placed in escrow by the State will produce the amounts necessary to provide for the timely payment of the proposed debt payment schedule on the Refunded Bonds, are mathematically correct.

#### **YIELD ON THE REFUNDING BONDS**

We verified the mathematical accuracy of the accompanying computations of the yield on the Refunding Bonds as of August 13, 2003. For purposes of this calculation, yield is defined as the rate of interest which, using the assumptions and procedures set forth herein, discounts the payments to be made on the Refunding Bonds to an amount equal to the target purchase price of the Refunding Bonds. The computations were made using a 360-day year with interest compounded semi-annually and treated \$26,543.54 as accrued interest, \$781,741.40 as the net original issue premium and \$65,000.00 as the bond insurance premium (which results in a target purchase price of \$22,903,284.94).

West Virginia Higher Education  
Policy Commission  
August 13, 2003  
Page 3

Based upon the procedures and information set forth above, the computations provided to us and represented in Exhibit C and C-1, which indicate that the yield on the Refunding Bonds is 3.24234%, are mathematically correct.

**YIELD ON THE INVESTMENT IN THE ESCROWED OBLIGATION PURCHASED WITH REFUNDING BOND PROCEEDS**

We verified the mathematical accuracy of the accompanying computation of the yield on the investment in the escrowed U.S. Treasury Security purchased with Refunding Bond proceeds based on an assumed settlement date of August 13, 2003 and an adjusted purchase price of \$22,654,506.15 (which is equal to the actual purchase price of such security net of a transferred proceeds penalty of \$10,651.98). For purposes of this calculation, yield is defined as the rate of interest which, using the assumptions and procedures set forth herein, discounts the cash receipt from this escrowed security to an amount equal to the purchase price of this escrowed security. The computations were made using a 360-day year with interest compounded semi-annually and were based on the dates the funds are to be received in the escrow account, and assume that all cash balances are not reinvested.

Based upon the procedures and information set forth above, the computations provided to us and represented in Exhibit D, which indicate that the yield on the escrowed security purchased with Refunding Bond proceeds, after allowance for the transferred proceeds penalty of \$10,651.98, is 0.91869% (which is less than the yield on the Refunding Bonds), are mathematically correct.

**MATHEMATICAL COMPUTATIONS OF TRANSFERRED PROCEEDS PENALTY**

We verified the accompanying computations presented in Exhibits E through E-3 to calculate the present value as of August 13, 2003 of the transferred proceeds penalty associated with the 1992 Securities. The present value computations were made using a 360-day year with interest compounded semi-annually.

We read a copy of the verification report for the 1992 Bonds prepared by Smith, Cochran & Hicks dated December 2, 1992 insofar as the remaining cash receipt from and the yield on the 1992 Securities are described. We compared the above information set forth in such verification report with the related information contained in the schedules provided to us and found the information to be consistent.

Based on the assumptions and procedures set forth above, using procedures and allocations approved by Bond Counsel, the calculations provided to us and represented in Exhibits E through E-3, which indicate that the transferred proceeds penalty is \$10,651.98, are mathematically correct.

### **PRESENT VALUE SAVINGS**

We verified the mathematical accuracy of the accompanying computation of the present value savings resulting from the current refunding of the Refunded Bonds based on an assumed settlement date of August 13, 2003. The computation was made using a 360-day year with interest compounded semi-annually. The computation was based on the assumptions that (1) the debt service requirements of the Refunded Bonds would have been paid on the regularly scheduled payment dates, without optional redemption prior to maturity, (2) the debt service requirements of the Refunding Bonds will be paid on the regularly scheduled payment dates, without optional redemption prior to maturity, (3) the State will contribute cash on the settlement date in the amount of \$109,416.87 from the Debt Service Funds associated with the Refunded Bonds, (4) accrued interest on the Refunding Bonds of \$26,543.54 will be received by the State at closing, (5) excess Refunding Bond Proceeds in the amount of \$2,675.29 will be received by the State at closing, and (6) the annual discount rate for purposes of this calculation is 3.24234%.

Based on the procedures and information set forth above, the computations in Exhibit F, which indicate that the present value savings associated with this refunding transaction is \$1,591,773.88, are mathematically correct.

### **USE OF THIS REPORT**

It is understood that this report is solely for the information of and assistance to the addressees hereof in connection with the offering of the Refunding Bonds and is not to be used, relied upon, circulated, quoted or otherwise referred to for any other purpose without our written consent, except that (i) reference may be made in the Official Statement for the Refunding Bonds in the section captioned "Verification of Mathematical Computations," (ii) reference may be made to the report in the purchase contract or in any closing documents pertaining to the offering of the Refunding Bonds, (iii) the report may be used in its entirety as an exhibit to the escrow agreement for the Refunded Bonds, (iv) the report may be included in the transcripts pertaining to the issuance of the Refunding Bonds, (v) the report may be relied upon by Bond Counsel in connection with its opinions concerning the Refunded Bonds and the Refunding Bonds, (vi) the report may be relied upon by any rating agency or bond insurer that shall have rated or insured or that will rate or insure the Refunded Bonds or the Refunding Bonds, and (vii) the report may be relied upon by the Escrow Agent for the Refunded Bonds.

\*\*\*\*\*

The procedures performed represent those procedures deemed by the addressees hereto to be sufficient to assist such parties in evaluating the mathematical accuracy of the various computations cited above. The sufficiency of these procedures is solely the responsibility of the specified users of this report and should not be taken to supplant any additional inquiries or procedures that the users

West Virginia Higher Education  
Policy Commission  
August 13, 2003  
Page 5

would undertake in their consideration of the issuance of the bonds related to the transaction described herein. We make no representation regarding the sufficiency of the procedures summarized herein, either for the purpose for which this report has been requested or for any other purpose. This report should not be used by any party who does not agree to the procedures set forth herein and who does not take responsibility for the sufficiency and appropriateness of such procedures for their purposes.

We have no obligation to update this report because of events, circumstances, or transactions occurring subsequent to the date of this report.

Very truly yours,

*Cassidy Dungen & Moore Inc.*

EXHIBIT A

STATE OF WEST VIRGINIA  
 HIGHER EDUCATION POLICY COMMISSION  
 REVENUE REFUNDING BONDS  
 (STATE COLLEGE FACILITIES), 2003 SERIES A

ESCROW ACCOUNT CASH FLOW  
 AS OF AUGUST 13, 2003

Date	Cash Receipt from U.S. Treasury Security Purchased with:		Total Cash Receipts	Cash Disbursement From Escrow (Exhibit B)	Cash Balance
	Debt Service Fund Contribution (Exhibit A-1)	Refunding Bond Proceeds (Exhibit A-2)			
Beginning Balance:					\$0.71
30-Sep-03	\$109,495.68	\$22,681,631.82	\$22,791,127.50		22,791,128.21
01-Oct-03				\$22,774,575.00	16,553.21
	\$109,495.68	\$22,681,631.82	\$22,791,127.50	\$22,774,575.00	

EXHIBIT A-1

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

CASH RECEIPT FROM THE ESCROWED SECURITY  
PURCHASED WITH THE DSF CONTRIBUTION  
AS OF AUGUST 13, 2003

	\$108,010.54	
	2.750%	Total
Payment	T-NOTE	Cash
Date	30-Sep-03	Receipt
30-Sep-03	\$109,495.68	\$109,495.68
	\$109,495.68	\$109,495.68

EXHIBIT A-2

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

CASH RECEIPT FROM THE ESCROWED SECURITY  
PURCHASED WITH REFUNDING BOND PROCEEDS  
AS OF AUGUST 13, 2003

	\$22,373,989.46	
	2.750%	Total
Payment	T-NOTE	Cash
Date	30-Sep-03	Receipt
30-Sep-03	<u>\$22,681,631.82</u>	<u>\$22,681,631.82</u>
	<u>\$22,681,631.82</u>	<u>\$22,681,631.82</u>

EXHIBIT A-3

STATE OF WEST VIRGINIA  
 HIGHER EDUCATION POLICY COMMISSION  
 REVENUE REFUNDING BONDS  
 (STATE COLLEGE FACILITIES), 2003 SERIES A

DESCRIPTION OF THE ESCROWED SECURITIES  
 AS OF AUGUST 13, 2003

Type	Settlement Date	Maturity Date	Par Amount	Coupon Rate	Price	Cost	Accrued Interest	Total Cost
<b>Security Purchased with the Debt Service Fund Contribution:</b>								
T-NOTE	13-Aug-03	30-Sep-03	\$108,010.54	2.750%	100.287027%	\$108,320.56	\$1,095.60	\$109,416.16
<b>Security Purchased with Refunding Bond Proceeds:</b>								
T-NOTE	13-Aug-03	30-Sep-03	22,373,989.46	2.750%	100.287027%	22,438,208.85	226,949.28	22,665,158.13
			<u>\$22,482,000.00</u>			<u>\$22,546,529.41</u>	<u>\$228,044.88</u>	<u>\$22,774,574.29</u>

**EXHIBIT B**

**STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A**

**ESCROW ACCOUNT DISBURSEMENT REQUIREMENTS FOR THE REFUNDED BONDS  
AS OF AUGUST 13, 2003**

<b>Payment Date</b>	<b>Rate</b>	<b>Payment For</b>			<b>Total</b>
		<b>Principal Redeemed</b>	<b>Interest</b>	<b>Premium</b>	
01-Oct-03	Various	\$21,695,000.00	\$645,675.00	\$433,900.00	\$22,774,575.00
		\$21,695,000.00	\$645,675.00	\$433,900.00	\$22,774,575.00

EXHIBIT B-1

STATE OF WEST VIRGINIA  
 HIGHER EDUCATION POLICY COMMISSION  
 REVENUE REFUNDING BONDS  
 (STATE COLLEGE FACILITIES), 2003 SERIES A

DEBT SERVICE REQUIREMENTS FOR THE REFUNDED BONDS  
 ASSUMING NO OPTIONAL REDEMPTIONS PRIOR TO MATURITY  
 AS OF AUGUST 13, 2003

(FOR INFORMATIONAL PURPOSES ONLY)

Payment Date	Rate	Payment For		Total Debt Payment
		Principal	Interest	
01-Oct-03			\$645,675.00	\$645,675.00
01-Apr-04	5.750%	\$3,065,000.00	645,675.00	3,710,675.00
01-Oct-04			557,556.25	557,556.25
01-Apr-05	5.875%	2,150,000.00	557,556.25	2,707,556.25
01-Oct-05			494,400.00	494,400.00
01-Apr-06	6.000%	2,245,000.00	494,400.00	2,739,400.00
01-Oct-06			427,050.00	427,050.00
01-Apr-07	6.000%	2,340,000.00	427,050.00	2,767,050.00
01-Oct-07			356,850.00	356,850.00
01-Apr-08	6.000%	2,445,000.00	356,850.00	2,801,850.00
01-Oct-08			283,500.00	283,500.00
01-Apr-09	6.000%	2,560,000.00	283,500.00	2,843,500.00
01-Oct-09			206,700.00	206,700.00
01-Apr-10	6.000%	2,675,000.00	206,700.00	2,881,700.00
01-Oct-10			126,450.00	126,450.00
01-Apr-11	6.000%	2,800,000.00	126,450.00	2,926,450.00
01-Oct-11			42,450.00	42,450.00
01-Apr-12	6.000%	1,415,000.00	42,450.00	1,457,450.00
		<u>\$21,695,000.00</u>	<u>\$6,281,262.50</u>	<u>\$27,976,262.50</u>

EXHIBIT C

STATE OF WEST VIRGINIA  
 HIGHER EDUCATION POLICY COMMISSION  
 REVENUE REFUNDING BONDS  
 (STATE COLLEGE FACILITIES), 2003 SERIES A

YIELD ON THE REFUNDING BONDS  
 AS OF AUGUST 13, 2003

Payment Date	Total Debt Payment (Exhibit C-1)	Present Value at August 13, 2003 Using a Semi-Annually Compounded Yield of 3.24234%
01-Oct-03	\$132,717.71	\$132,149.77
01-Apr-04	4,033,153.13	3,951,828.21
01-Oct-04	361,803.13	348,852.20
01-Apr-05	2,686,803.13	2,549,299.08
01-Oct-05	326,928.13	305,248.14
01-Apr-06	2,691,928.13	2,473,318.25
01-Oct-06	291,453.13	263,512.40
01-Apr-07	2,686,453.13	2,390,162.38
01-Oct-07	263,012.50	230,271.57
01-Apr-08	2,678,012.50	2,307,237.69
01-Oct-08	202,637.50	171,796.91
01-Apr-09	2,707,637.50	2,258,925.22
01-Oct-09	140,012.50	114,946.02
01-Apr-10	2,735,012.50	2,209,541.93
01-Oct-10	75,137.50	59,733.16
01-Apr-11	2,765,137.50	2,163,173.04
01-Oct-11	24,700.00	19,014.60
01-Apr-12	1,259,700.00	954,274.37
	<u>\$26,062,239.62</u>	<u>\$22,903,284.94</u>

Dated Date: 01-Aug-03  
 Delivery Date: 13-Aug-03

The above aggregate present value of the future payments equals the following:

Par Value of the Issue	\$22,160,000.00
Accrued Interest	26,543.54
Net Original Issue Premium	781,741.40
Bond Insurance Premium	(65,000.00)
Proceeds on Delivery Date	<u>\$22,903,284.94</u>

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

REFUNDING BOND DEBT SERVICE REQUIREMENTS AND PRODUCTION  
AS OF AUGUST 13, 2003

Payment Date	Rate	Payment For		Total Debt Payment	Reoffering Price	Original Issue Premium/ (Discount)	Total Production
		Principal	Interest				
01-Oct-03			\$132,717.71	\$132,717.71			
01-Apr-04	2.000%	\$3,635,000.00	398,153.13	4,033,153.13	100.610%	\$22,173.50	\$3,657,173.50
01-Oct-04			361,803.13	361,803.13			
01-Apr-05	3.000%	2,325,000.00	361,803.13	2,686,803.13	102.442%	56,776.50	2,381,776.50
01-Oct-05			326,928.13	326,928.13			
01-Apr-06	3.000%	2,365,000.00	326,928.13	2,691,928.13	102.499%	59,101.35	2,424,101.35
01-Oct-06			291,453.13	291,453.13			
01-Apr-07	2.375%	2,395,000.00	291,453.13	2,686,453.13	99.601%	(9,556.05)	2,385,443.95
01-Oct-07			263,012.50	263,012.50			
01-Apr-08	5.000%	2,415,000.00	263,012.50	2,678,012.50	109.266%	223,773.90	2,638,773.90
01-Oct-08			202,637.50	202,637.50			
01-Apr-09	5.000%	2,505,000.00	202,637.50	2,707,637.50	109.046%	226,602.30	2,731,602.30
01-Oct-09			140,012.50	140,012.50			
01-Apr-10	5.000%	2,595,000.00	140,012.50	2,735,012.50	108.437%	218,940.15	2,813,940.15
01-Oct-10			75,137.50	75,137.50			
01-Apr-11	3.750%	2,690,000.00	75,137.50	2,765,137.50	99.471%	(14,230.10)	2,675,769.90
01-Oct-11			24,700.00	24,700.00			
01-Apr-12	4.000%	1,235,000.00	24,700.00	1,259,700.00	99.851%	(1,840.15)	1,233,159.85
		<u>\$22,160,000.00</u>	<u>\$3,902,239.62</u>	<u>\$26,062,239.62</u>		<u>\$781,741.40</u>	<u>\$22,941,741.40</u>

EXHIBIT D

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

YIELD ON THE ESCROWED SECURITY PURCHASED  
WITH REFUNDING BOND PROCEEDS  
AS OF AUGUST 13, 2003

Date	Total Cash Receipt From U.S. Treasury Security Purchased with Refunding Bond Proceeds (Exhibit A)	Present Value at August 13, 2003 Using a Semi-Annually Compounded Yield of 0.91869%
30-Sep-03	\$22,681,631.82	\$22,654,506.15
	<u>\$22,681,631.82</u>	<u>\$22,654,506.15</u>

Cost of Security	\$22,665,158.13
Less Transferred Proceeds Penalty	<u>(10,651.98)</u>
Adjusted Cost of Security	<u>\$22,654,506.15</u>

EXHIBIT E

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

TRANSFERRED PROCEEDS PENALTY  
AS OF AUGUST 13, 2003

<b>Transfer Date</b>	<b>Present Value of Transferred Amount (Exhibit E-1)</b>	<b>Present Value Difference on August 13, 2003 at 3.24234%</b>
01-Oct-03	\$10,697.76	\$10,651.98
	<u>\$10,697.76</u>	<u>\$10,651.98</u>

EXHIBIT E-1

STATE OF WEST VIRGINIA  
 HIGHER EDUCATION POLICY COMMISSION  
 REVENUE REFUNDING BONDS  
 (STATE COLLEGE FACILITIES), 2003 SERIES A

PRESENT VALUE DIFFERENCE OF TRANSFERRED PROCEEDS

Date	Transferred Proceeds (Exhibit E-2)	Present Value of Transferred Proceeds on October 1, 2003	
		3.24234%	5.96404%
15-Feb-04	\$1,098,692.15	\$1,085,617.09	\$1,074,919.33
	\$1,098,692.15	\$1,085,617.09	\$1,074,919.33
		Present Value at 3.24234%	\$1,085,617.09
		Present Value at 5.96404%	1,074,919.33
		Difference	<u>\$10,697.76</u>

EXHIBIT E-2

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

TRANSFERRED PROCEEDS

Date	Adjusted Remaining Receipt From 1992 Securities	Transferred Proceeds
		01-Oct-03 99.51922%
15-Feb-04	\$1,104,000.00	\$1,098,692.15
	\$1,104,000.00	\$1,098,692.15

STATE OF WEST VIRGINIA  
 HIGHER EDUCATION POLICY COMMISSION  
 REVENUE REFUNDING BONDS  
 (STATE COLLEGE FACILITIES), 2003 SERIES A

TRANSFER PERCENTAGE  
 AS OF AUGUST 13, 2003

Date	Principal Outstanding	Principal Retired (Exhibit B)	Total Debt Service Paid (Exhibit B)	Principal Retired as a percentage of Total Debt Service	Total Cash and Cash Receipt from Security Purchased with DSF Contribution	Adjusted Cash Receipt Allocable to Principal	Principal Retired with Refunding Bond Proceeds	Transfer Percentage
01-Oct-03	\$21,695,000.00	\$21,695,000.00	\$22,774,575.00	95.260%	\$109,496.39	\$104,305.97	\$21,590,694.03	99.51922%
		\$21,695,000.00	\$22,774,575.00		\$109,496.39	\$104,305.97	\$21,590,694.03	

## EXHIBIT F

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

PRESENT VALUE SAVINGS (COST)  
AS OF AUGUST 13, 2003

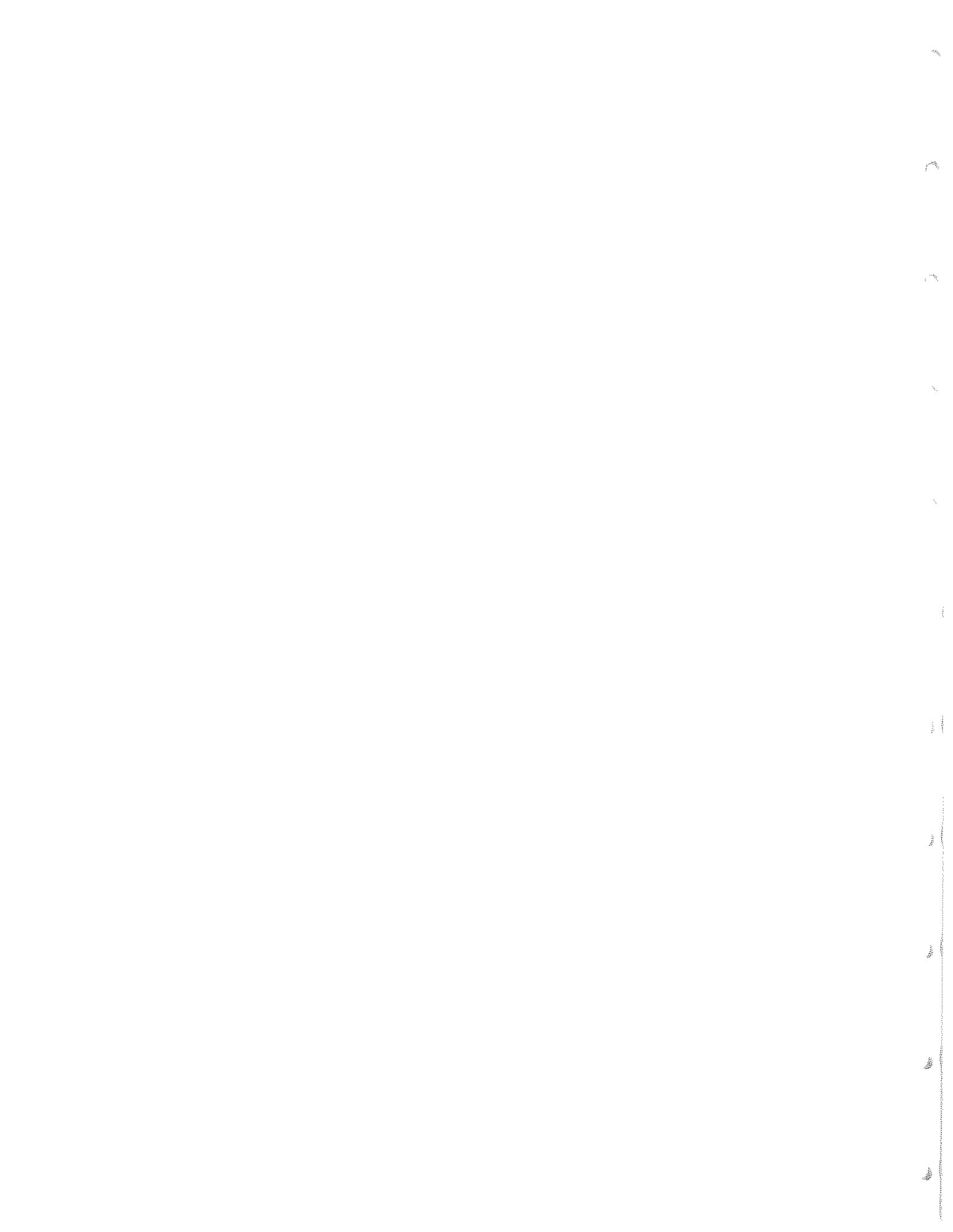
Date	Refunding Bond Debt Service (Exhibit C-1)	Refunded Bond Debt Service (Exhibit B-1)	Savings (Cost)	Annual Savings	Present Value of Savings (Cost) at August 13, 2003 3.24234%
01-Oct-03	\$132,717.71	\$645,675.00	\$512,957.29		\$510,762.20
01-Apr-04	4,033,153.13	3,710,675.00	(322,478.13)	\$190,479.16	(315,975.65)
01-Oct-04	361,803.13	557,556.25	195,753.12		188,746.03
01-Apr-05	2,686,803.13	2,707,556.25	20,753.12	216,506.24	19,691.03
01-Oct-05	326,928.13	494,400.00	167,471.87		156,366.10
01-Apr-06	2,691,928.13	2,739,400.00	47,471.87	214,943.74	43,616.71
01-Oct-06	291,453.13	427,050.00	135,596.87		122,597.61
01-Apr-07	2,686,453.13	2,767,050.00	80,596.87	216,193.74	71,707.79
01-Oct-07	263,012.50	356,850.00	93,837.50		82,156.20
01-Apr-08	2,678,012.50	2,801,850.00	123,837.50	217,675.00	106,692.01
01-Oct-08	202,637.50	283,500.00	80,862.50		68,555.56
01-Apr-09	2,707,637.50	2,843,500.00	135,862.50	216,725.00	113,347.24
01-Oct-09	140,012.50	206,700.00	66,687.50		54,748.42
01-Apr-10	2,735,012.50	2,881,700.00	146,687.50	213,375.00	118,504.83
01-Oct-10	75,137.50	126,450.00	51,312.50		40,792.65
01-Apr-11	2,765,137.50	2,926,450.00	161,312.50	212,625.00	126,195.12
01-Oct-11	24,700.00	42,450.00	17,750.00		13,664.34
01-Apr-12	1,259,700.00	1,457,450.00	197,750.00	215,500.00	149,803.73
<b>Total</b>	<b>\$26,062,239.62</b>	<b>\$27,976,262.50</b>	<b>1,914,022.88</b>	<b>1,914,022.88</b>	<b>1,671,971.92</b>
Accrued Interest			26,543.54	26,543.54	26,543.54
Less Debt Service Fund Contribution			(109,416.87)	(109,416.87)	(109,416.87)
Excess Refunding Bond Proceeds			2,675.29	2,675.29	2,675.29
<b>Net Total</b>			<b>\$1,833,824.84</b>	<b>\$1,833,824.84</b>	<b>\$1,591,773.88</b>

EXHIBIT G

STATE OF WEST VIRGINIA  
HIGHER EDUCATION POLICY COMMISSION  
REVENUE REFUNDING BONDS  
(STATE COLLEGE FACILITIES), 2003 SERIES A

SOURCES AND USES OF FUNDS  
AS OF AUGUST 13, 2003

Sources of Funds:	
Par Value of Bonds	\$22,160,000.00
Accrued Interest	26,543.54
Net Original Issue Premium	781,741.40
Debt Service Fund Contribution	109,416.87
Total Sources of Funds	<u>\$23,077,701.81</u>
Uses of Funds:	
Beginning Escrow Account Cash Balance Funded with:	
Debt Service Fund Contribution	\$0.71
Cost of the Escrowed Security Purchased with:	
Debt Service Fund Contribution	109,416.16
Refunding Bond Proceeds	22,665,158.13
Accrued Interest	26,543.54
Bond Insurance Premium	65,000.00
Underwriter's Discount	78,587.20
Issuance Costs	130,320.78
Contingency	2,675.29
Total Uses of Funds	<u>\$23,077,701.81</u>



WV MUNICIPAL BOND COMMISSION  
8 Capitol Street, 5<sup>th</sup> Floor  
Charleston, WV 25301  
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: August 7, 2003

ISSUE: \$22,160,000 State of West Virginia Higher Education Policy Commission Revenue Refunding Bonds (College Facilities) 2003 Series A

ADDRESS: 1080 Kanawha Blvd, East, Suite 700, Charleston, WV 25301 COUNTY: Kanawha

PURPOSE OF ISSUE: New Money: \_\_\_\_\_  
Refunding: X REFUND ISSUE(S) DATED: August 13, 2003

ISSUE DATE: August 13, 2003 CLOSING DATE: August 13, 2003

ISSUE AMOUNT: \$22,160,000 RATE: 3.242345%

1<sup>ST</sup> DEBT SERVICE DUE: October 1, 2003 1<sup>ST</sup> PRINCIPAL DUE: April 1, 2004

1<sup>ST</sup> DEBT SERVICE AMOUNT: \$132,717.71 PAYING AGENT: Bank One, N.A.

BOND UNDERWRITERS  
COUNSEL: Spilman Thomas & Battle, PLLC COUNSEL: Goodwin & Goodwin, LLP  
Contact Person: Lee O. Hill, Esq. Contact Person: Len Coleman, Esq.  
Phone: 304.340.3802 Phone: 304.346.7000

CLOSING BANK: Bank One, N.A. ESCROW TRUSTEE: Municipal Bond Commission  
Contact Person: Lorene Mullins Contact Person: Witter Hallan  
Phone: 304.348.4463 Phone: 304.558.3971

KNOWLEDGEABLE ISSUER CONTACT OTHER: \_\_\_\_\_  
Contact Person: James A. Winter Contact Person: \_\_\_\_\_  
Position: Director of Finance & Facilities Function: \_\_\_\_\_  
Phone: 304.558.0281 Phone: \_\_\_\_\_

DEPOSITS TO MBC AT CLOSE: x Escrow Fund: \$109,416.87  
By: x Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
\_\_\_\_\_ Reserve Account: \$ \_\_\_\_\_  
\_\_\_\_\_ Other: \$ \_\_\_\_\_

REFUNDS & TRANSFERS BY MBC AT CLOSE:  
By: x Wire x To Interest Account: \$26,543.54  
\_\_\_\_\_ Check \_\_\_\_\_  
\_\_\_\_\_ IGT \_\_\_\_\_  
\_\_\_\_\_ To Issuer: \$ \_\_\_\_\_  
\_\_\_\_\_ To Cons. Invest. Fund \$ \_\_\_\_\_  
x To Other \$22,665,158.13 Refunding Bond  
Proceeds

NOTES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:  
DOCUMENTS REQUIRED: \_\_\_\_\_

